

SUMMARY OF INCIDENT

On December 15, 2012 at approximately 11:18 AM, a Trailblazer sports utility vehicle (SUV) occupied by four black males was involved in a pursuit with a Chicago Police Department (CPD) vehicle driven by Officer A and occupied by Officer B. The pursuit ended, when the Trailblazer crashed, at a gas station located at 55th and Ashland. The suspect men exited the crashed vehicle, and fled on foot. The fourth man exiting, Subject 1, was hit by the CPD vehicle while trying to flee. After the two officers exited their vehicle, Subject 1 came from underneath the CPD vehicle and struggled with Officer A. Subject 1 again tried to flee, and was shot twice by Officer B. Subject 1 died shortly after. A crowd began to gather and numerous CPD officers responded to the scene. One responding officers, identified as Officer C, is on video pushing a civilian named-Civilian 1.¹

INVESTIGATION²

On December 15, 2012 at approximately 12:30 PM, Independent Police Review Authority (IPRA) personnel responded to the scene of Subject 1's shooting at 1551 W. Garfield Blvd, and made **Observations of the Scene**. IPRA noted yellow crime scene tape across Garfield Blvd. and Ashland Ave., with red tape around a damaged silver SUV and a marked CPD SUV. IPRA observed evidence markers near two shell casings, a lighter, a small black flashlight, and a cellphone. Numerous individuals were gathered near 55th St. and Ashland Ave. and IPRA noted that the crowd began yelling and moving into the intersection. There was a massive response of CPD officers with multiple arrests made to bring the scene under control.

Executive Officer A provided IPRA information on the scene. Executive Officer A related that Officer B and Officer A were monitoring a flash message related to an armed robbery in progress with a description of the suspect vehicle and information that the suspects were armed with guns. The two officers observed the suspect vehicle near 55th St. and Western Ave., but the vehicle fled when the officers attempted to stop it. The officers then pursued the vehicle until it crashed at the Phillips 66 Gas Station at 55th St. and Ashland Ave. After the crash, four individuals exited the suspect vehicle. The first three suspects got away but the last individual, Subject 1, was reported to have stumbled and fallen. Executive Officer A related that the two officers got out of their CPD vehicle and Officer A got into an altercation with Subject 1 in which Subject 1 flipped Officer A onto the ground. Subject 1 then stood up with a black object in his hand and Officer B reportedly yelled, "Gun, gun" before firing two shots at Subject 1. Subject 1 was transported to St. Bernard's Hospital and was pronounced dead on arrival.

IPRA went to St. Bernard's Hospital where they were informed Subject 1 was deceased and were allowed to view Subject 1's body. Additional IPRA personnel attempted to interview witnesses near the scene. Officer A went to the hospital for arm and ankle injuries and Officer B went to the hospital for precautionary reasons. Multiple witnesses were identified for Subject 1's shooting through either information provided by Area Central Detectives or self-identified witnesses who called IPRA. Video was obtained from the Phillips 66 Gas Station and from Officer A's in-car camera. (Att. 4)

CPD Event Queries were obtained regarding the events of December 15, 2012. At 10:18 AM, Dispatch reported that four black males in a grey, 2006 Trailblazer were trying to rob a truck driver at 3900 S. Kedzie. At 10:19 AM, Dispatch related that the suspect car was a silver Trailblazer heading south on Kedzie

¹ The investigation of a pursuit allegation against Officer A and an excessive force allegation against Officer C are discussed in the summary report for Log #1086838.

² On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Thus, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

with Indiana license plates. At 10:23 AM, Dispatch related that a silver Trailblazer with Indiana plates stole televisions from a truck at 3800 S. Kedzie. At 10:24 AM, Dispatch reported that the suspect vehicle contained a gun with approximately five black males heading east on Pershing. At 10:28 AM, Dispatch related that the suspects were seen on Pershing and “at least 1 is armed.” At approximately 11:13 AM, Dispatch related the suspects were southbound on Western from 50th St. At 11:15 AM, Dispatch relayed that the suspect vehicle, “should have a gun in the car.” At 11:15 AM, Dispatch reported that the suspects were eastbound on 55th St. and cautioned they “might go to the expressway.” At 11:16 AM, Dispatch reported that there were four males southbound on foot heading towards Justine. At 11:17 AM, Dispatch reported shots fired and asked for an ambulance. At 11:18 AM, Dispatch requested additional officers and stated there was a need for crowd control. At approximately 11:17 AM, Dispatch reported that someone called the Office of Emergency Management Communications (OEMC) and related that a “man was shot then ran over.” At 11:33 AM, Dispatch provided a description of two of the men who fled the scene. Additional remarks included a description of the Trailblazer with license plate XXXXXXXX. Dispatch also related that one white male and two black males “snatched the truck driver out of the truck and is now beating him,” and that the suspects stole televisions from the truck. (Atts. 19, 20 - 23, 52, 71 - 74)³

911 Calls were obtained from the **Office of Emergency Management Communications (OEMC)** pertaining to the events of December 15, 2012. One caller reported, “There’s three men that just assaulted someone in a semi, they pulled him out his truck. It’s actually happening right now on 39th, between 39th and 38th St. and Kedzie.” The caller related that the men were loading televisions into a truck and described the suspects as one white male and two black males. Another caller reported men in a grey Trailblazer near Pershing who had “a pistol” and were fighting with somebody near Pershing and Kedzie before heading east. This caller related that he saw four or five black males robbing “this guy” in a semi-truck. A truck driver near 38th and Kedzie reported that someone opened his trailer and stole televisions from inside. The truck driver was not sure how many televisions were taken but he related that he saw men jump out of a Trailblazer with Indiana plates and break his truck’s seal. Another caller reported that the suspect vehicle had a license plate of XXXXXXXX that “didn’t look right.” This same caller also reported that he saw two black men in a grey Trailblazer going north on Western that had just exited their SUV and broke the seal on a truck. A representative from the company On-Star reported a collision near Garfield & Ashland involving a silver 2007 Chevrolet Trailblazer. On-Star related that the crash had a Delta V of 8 MPH. One 911 caller announced, “They ran him over,” “they ran that mother fuckin’ man over,” “we need an ambulance.” (Att. 51, 60 – 70)

A **CPD Original Case Incident Report** with **RD #XXXXXXX** was obtained which detailed an armed robbery committed by four unidentified black males. According to this report, on 15 December 2012, officers responded to an armed robbery in progress at 3817 S. Kedzie at 1025 hours. Officer D and Officer E arrived first and issued a flash message of four males in a silver Chevrolet Trailblazer that had robbed multiple televisions from a trailer and was last seen driving south on Kedzie. (Att. 5)

Detective Supplementary Reports were located for **RD #XXXXXXX** that stated the suspect Trailblazer was registered to an individual named Civilian 3, a documented Gangster Disciple. These reports also stated that the weather on December 15, 2012 was rainy and overcast. A second burglary was identified as occurring on December 15, 2012 at 5400 S. Western by suspects with the same description as the first robbery. The Supplementary Reports reported that the suspect Trailblazer was observed near 51st St. and Western Ave. at 1118 hours, approximately one hour after the first incident. The CPD officers who saw the Trailblazer attempted to stop the vehicle, which fled and crashed near 55th and Ashland. Three of the suspects fled while

³ A transcript of OEMC officer transmissions can be found in Attachment 144 to this log, which was an attachment to a filing for 13-CV-00483.

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two officers (identified as Officer B and Officer A) tried to take the fourth suspect, Subject 1, into custody. Subject 1 attempted to defeat arrest and was shot and killed by Officer B.

Detectives were made aware that a confidential informant had related information regarding the individuals in the SUV to Officer F. The confidential informant told Officer F that the driver of the car was a man named "Civilian 2" or "Civilian 2" and one of the passengers was an individual named "Civilian 3." The confidential informant did not know of an additional passenger at the time of his call with Officer H.

A witness named Civilian 4 viewed a photo array on 16 December 2012 and identified Civilian 2 as an offender. Civilian 4 stated that on 15 December 2012 near Western Ave. & 55th St., he saw two black males exit the silver SUV and use yellow bolt cutters to break the seal of a semi-trailer. The males then closed the trailer doors, reentered the silver SUV, and fled on Western Avenue toward 51st Street. Later, Civilian 4 saw the same silver SUV driving south on Western Ave. while being pursued by the police.

Another CPD officer, Officer G, indicated he had a confidential informant who related information regarding the investigation. According to Officer G, the confidential informant informed him that the offenders were from a robbery crew located at 56th and Shields Avenue. The confidential informant stated the driver was "Civilian 3," who he identified as Civilian 3, and a second involved offender "Civilian 2," was identified as Civilian 2.

CPD also interviewed a witness named Civilian 5. Civilian 5 related that he was near 39th Pl. and Kedzie when he saw the doors on a semi-trailer open and two black males enter with a third black male in the driver seat of a silver Trailblazer. Civilian 5 stated that he saw the two black males throwing boxes out of the semi-trailer. Civilian 5 was unable to describe what the suspects looked like. Civilian 5 denied calling OEMC and stating that the driver had been beaten or that the offenders had weapons. The driver of the semi-trailer, Civilian 6, reported that he recently left a railyard with a trailer of Samsung televisions and was stopped at 38th and Kedzie when he noticed his trailer move and its door swing open. Civilian 6 then called the police and gave a description of the suspect vehicle but he was unable to give descriptions of the suspects. Another witness named Civilian 7 stated that he and his co-worker, Civilian 8, were driving near 39th St. and Kedzie when they saw four men removing large boxes from a semi-trailer. Civilian 7 saw a dark object in one of the offender's hands which appeared to be a handgun. Civilian 8 related that he saw a silver Trailblazer near 39th St. and Kedzie Ave. Civilian 8 also saw several individuals removing items from a truck. According to Civilian 8, the suspects fled the scene, at which point he saw four or five black males in the Trailblazer. Civilian 8 also related that he thought one of the suspects had a dark gun.

The detectives for this case requested that the case be suspended, pending further evidence. (Atts. 124, 125)

Next, an **Original Case Incident Report** was located for **RD #XXXXXXXXX**. This document details events that occurred on 15 December 2012 near 5400 S. Western Ave. at approximately 1106 hours. The reporting party in this report is Civilian 9. Civilian 9 and a witness, Civilian 4, reported that Civilian 4 was stopped behind Civilian 9 at a red light when Civilian 4 saw a silver Trailblazer stop behind Civilian 9. Civilian 4 saw two males exit the SUV with bolt cutters and then cut open the rear lock of Civilian 9's trailer. Civilian 4 then observed these males enter then exit Civilian 9's truck before returning to the silver SUV and driving off. Civilian 4 believed there was another individual driving the SUV and one in the passenger seat, neither of whom he could see. **Detective Supplementary Reports** were also located for **RD #XXXXXXXXX**. These reports identified an offender named Civilian 2, a member of the Gangster Disciples, who was reportedly inside

the silver SUV Trailblazer that was involved in breaking into Civilian 9's truck. These supplementary reports related that this case was suspended on February 2, 2013. (Atts. 8, 126, 128)

An **Original Case Incident Report** was found for **RD #XXXXXXXXX**. Reports state that on 15 December 2012 at 1118 hours, Subject 1 was accused of Aggravated Assault against a Peace Officer with a Handgun at a gas station located at 1551 W. Garfield Blvd. Subject 1 is listed as a member of the Gangster Disciples in this report. Available details state that Subject 1 was mortally wounded after violently resisting a police officer and displaying what the officer thought was a handgun. Responding detectives observed a damaged silver Chevrolet Trailblazer on the scene which had temporary Indiana tags. The detectives also noted a marked CPD Tahoe on the scene, in addition to a black flashlight, a black cell phone, a wet rag, two spent cartridge casings, and a pool of blood. Detectives were told that Subject 1 had been shot multiple times and was transported to St. Bernard's Hospital where he was pronounced dead at 1213 hours. Detectives determined the Trailblazer was registered to an individual named Civilian 3. The cellphone found on the scene was not working.

Detectives spoke with Officer A who related that he was driving while partnered with Officer B when they heard a call regarding an armed robbery near 38th and Kedzie involving four black male suspects armed with guns and driving a gray Trailblazer. Then, the officers heard a second call regarding two black males in a gray Trailblazer attempting to rob a truck near 54th and Western. The officers saw the suspect vehicle near 51st and Western and attempted to curb the Trailblazer. However, the Trailblazer fled at a high rate of speed while running red lights. Additionally, it was raining and the pavement was slick. The Trailblazer continued speeding until the vehicle crashed at a Phillips Gas Station located at 55th and Ashland Ave. Officer A reported that he then saw a black male running from the vehicle as he approached, but there was debris on the road and Officer A's view was obstructed. The CPD vehicle slid and struck an offender (identified as Subject 1). Both officers then exited their CPD vehicle to apprehend Subject 1. However, Subject 1 flipped Officer A over and slammed the officer on his back. Officer A then heard Officer B yell, "gun, gun" before he heard two gunshots and Subject 1 fell. Officer A then tried to restrain Subject 1 but Subject 1 was still resisting until additional officers arrived. Officer A said Subject 1 had a black metal flashlight under his body and "no handgun was found."

Officer B stated that she and Officer A were monitoring OEMC calls related to male, black offenders in a gray Trailblazer involved in an armed robbery. According to Officer B, they saw the suspect vehicle near 51st and Western and attempted to "curb" the Trailblazer, which fled at a high rate of speed and ran red lights before it crashed near 55th and Ashland. Officer B related that there was debris in the road and the street was wet. As the CPD vehicle turned into the lot where the Trailblazer crashed, the officers saw individuals fleeing on foot and the CPD car slid and crashed into one of the suspects (identified as Subject 1). As Officer A attempted to detain Subject 1, Officer B was giving information over her radio when she saw Subject 1 flip and slam Officer A. Officer B saw what she believed was a black gun in Subject 1's hand so she fired twice at Subject 1 then informed Dispatch and called for medical attention. Officer B reported that no gun was found and a black flashlight was located underneath Subject 1.

Officer J was interviewed by detectives and related that he and his partner, Officer I, were monitoring the radio and heard a flash message about a silver vehicle involved in a robbery near 38th and Kedzie that was followed by a flash message with the suspect vehicle's license plate. Officer J and his partner saw the suspect vehicle near 49th and Western when they heard beat 935 saw the silver vehicle and were in pursuit. Officer J stated that they followed the pursuit to 55th and Ashland, where the silver vehicle crashed. Officer J and his partner approached the gas station from the alley and heard a female officer (identified as Officer B) yell, "He's got a gun, He's got a gun, need assistance," and saw a male officer (identified as Officer A) placing the offender (identified as Subject 1) into handcuffs. This detective's report related that Officer J saw Subject 1 "clutching" a

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flashing in his right hand. Officer I also related the flash messages heard by him and Officer J and the resulting pursuit. Officer I reported that when he and his partner arrived at 55th and Ashland, he heard a female officer (identified as Officer B) yelling and announcing the fleeing suspects' direction of flight. Officer I and his partner then approached the gas station and saw a male officer (identified as Officer A) putting an offender (identified as Subject 1) into handcuffs. Officer I told detectives that he saw Subject 1 holding a flashlight in his right hand.

Detectives also interviewed Civilian 10, a XXXXX at the gas station. Civilian 10 related that he was inside and heard a car crash and then saw a smoking car. Civilian 10 stated that there were two shots and he saw a person on the ground. Civilian 10 told detectives that the gas station had surveillance video.

Another witness named Civilian 11 was interviewed by detectives. Civilian 11 reported that she and a friend, Civilian 12, had stopped at the gas station when she saw a silver SUV hit a light pole and four to five people jumping out shortly after. Civilian 11 related that the last individual to exit the SUV (identified as Subject 1) was run over by the CPD car and that this person attempted to crawl out from under the CPD car before "tussling" with a male officer (identified as Officer A). Civilian 11 then saw Subject 1 body slam Officer A. According to Civilian 11, a female officer (identified as Officer B) pulled out her firearm and shot Subject 1 twice. Civilian 11 saw a police officer handcuff Subject 1 before an ambulance arrived. Civilian 12 stated that she and Civilian 11 had stopped at the gas station before going to work when she heard a loud noise and saw four to six black males fleeing from a gray truck. Civilian 12 stated the last black male (identified as Subject 1) got out of the truck when a CPD car pulled up and hit Subject 1. Subject 1 fell down under the CPD vehicle and crawled out. Civilian 12 stated the male officer (identified as Officer A) exited the driver's side of the CPD vehicle and jumped on Subject 1's back. Civilian 12 then saw Subject 1 flip Officer A onto the ground before a female officer (identified as Officer B) approached and shot Subject 1.

Detectives interviewed a witness named Civilian 13. Civilian 13 told detectives that she was stopped at a red light at 55th and Ashland when she saw a silver truck lose control and hit a light pole. According to Civilian 13, three individuals then jumped out of the truck and ran off while a police car arrived. Civilian 13 related that another man (identified as Subject 1) exited the truck and looked at the police. Next, Civilian 13 saw an officer fall, followed by hearing a gunshot. Civilian 13 did not see the officer fighting with Subject 1. (Att. 6, 7)

A **Detective Supplementary Report** was also found for **RD #XXXXXXXXXX**. Available documents stated that Medical Examiner 1 completed an autopsy on Subject 1 on 17 December 2012 and determined the cause of Subject 1's death to be gunshot wounds/homicide. It was also reported that Subject 1 was "violently resisting a lawful arrest," was "mortally wounded by arresting officer," and that Subject 1 displayed what was believed to be a handgun in an attempt to defeat arrest. Documents stated that Subject 1 committed an aggravated battery against a police officer with hands, causing serious injury. Additionally, detectives attempted to perform a canvass but a crowd of individuals "became volatile and hostile towards the police that culminated in several arrests for Mob Action." On 15 August 2013, Civilian 3 was stopped for a traffic violation and brought to the 5th District to post bond. Civilian 3 told detectives he was refusing to speak about the investigation related to RD #XXXXXXXXXX. (Att. 59, 127)

Officer B completed a **Tactical Response Report** (TRR) following Subject 1's shooting. This report stated that while at 1551 W. Garfield Blvd., Subject 1 pointed what Officer B thought was a handgun in her direction and "in fear of her life and her partner's life [she] discharged her firearm ceasing the threat." This report stated that Subject 1 was armed, did not follow verbal direction, fled, pulled away, attacked with a weapon by slamming Officer A on the ground, and put the officers in imminent threat of battery. This report also stated that weather conditions were rainy. The Watch Commander Review for this TRR states that Officer

B “acted in compliance with the Department policy” because she fired “her weapon in fear of her life and the life of [her] partner,” when Subject 1 pointed “an object in the direction” of Officer B and Officer A. Similarly, **Officer A** completed a **Tactical Response Report** (TRR). Officer A’s TRR related that he performed an emergency take down/handcuffing and was slammed by Subject 1. This report states Subject 1 was armed when he was interacting with the officers. The Watch Commander Review for Officer A’s TRR relates, “Based on available information the officers [sic] actions were within the use of force model as the offender was an assailant.” (Atts. 9, 11)

Officer A submitted an **Officer’s Battery Report** (OBR) which stated that he was subject to battery from Subject 1. This report states that no assisting officers were present when Officer A was struck by Subject 1. Officer A reported that, following a traffic pursuit, Subject 1 slammed the officer on his back and Subject 1 had a handgun. Officer A reported experiencing non-fatal, minor injuries. This report also stated that the incident was gang related and that there were four offenders. Officer A indicated that it was raining during the situation with Subject 1. **Officer B** completed a similar **Officer’s Battery Report** (OBR). However, Officer B reported no injuries and stated the incident was not gang related. (Atts. 10, 12)

A **Traffic Pursuit Report** was completed regarding Officer A and Officer B’s pursuit of the suspect vehicle which contained Subject 1. This report stated that on 15 December 2012 at approximately 1115 hours, Officer A was driving a CPD vehicle near 5100 S. Western when the suspect vehicle was observed. This report also states that the suspect vehicle disobeyed five traffic control devices, was speeding, weaving through traffic, and hit a light pole. The surface condition during the pursuit was reported as wet and the weather as raining. Traffic conditions were described as medium and pedestrian traffic was described as light. The pursued vehicle was detailed as a silver 2007 Chevrolet Trailblazer with a temporary Indiana tag and four passengers. The narrative portion of this report states, “Vehicle being pursued was wanted for several robberies/thefts with four offenders, with one being armed with a handgun.” This report states that Officer A, “was able to maintain safe maneuvering of Department vehicle during entire vehicle pursuit.” This report indicates that OEMC was notified, the speeds involved permitted the pursuit, the speeds involved did not require termination of the pursuit, the pedestrian and vehicular traffic did not require termination of the pursuit, weather conditions were acceptable, and the pursuit was authorized. The Traffic Pursuit Report related that there was an accident that occurred during the pursuit with the pursued vehicle being damaged. The pursuit is detailed as covering roughly two miles. The report stated that the supervising sergeant was inquiring about speeds while the pursued vehicle’s occupants were fleeing on foot. The report states that the “severity of assignment with armed offender allowed for continuation.” COPA notes that this Traffic Pursuit Report makes no mention of the fact that Officer A struck Subject 1 with the police vehicle. (Att. 13)

Dash-Camera Video⁴ from the CPD vehicle driven by Officer A and occupied by Officer B was obtained. The following chart details events in the video, along with an image and the approximate time of occurrence. (Atts. 7,18, 130)

⁴ Chicago Police vehicle #8474 used by P.O.’s Officer A and Officer B had a working camera. Bt XXXX Officer O saved the images from the squad car and stated there was no audio because the microphones were not synced.

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Approx. Time	Description	Image
11:16:53	The suspect vehicle comes into view on the right-hand side.	 A street-level view of a wet intersection on a rainy day. The road is dark and reflective. In the distance, traffic lights are visible. On the right side of the frame, a white vehicle is partially visible and circled in red. The background shows some trees and buildings under a grey sky.
11:16:58	The suspect vehicle gives chase.	 A street-level view from a different angle, also on a rainy day. The road is wet and reflective. In the foreground on the right, a white vehicle is circled in red. The background shows a building with a sign and some trees. The sky is overcast.

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11:17:02	The CPD vehicle appears to attempt to overtake the suspect vehicle.	
11:17:21	The suspect vehicle is speeding off and visibility appears to be diminished.	
11:17:38	The CPD vehicle catches up with the suspect vehicle.	



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11:18:14	The suspect vehicle appears to no longer be visible in the in-car camera footage.	
11:18:31	The CPD vehicle approached the Phillips 66 Gas Station where the suspect vehicle has crashed.	



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11:18:30	Subject 1 is struck by the CPD vehicle and falls to the ground.	
11:18:41	Officer B is seen leaning down towards Subject 1.	

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11:18:42	Officer A joins Officer B in leaning towards Subject 1 as Officer B starts to stand up.	
11:18:45	Officer B walks away from her partner and Subject 1 while apparently using her CPD radio.	



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11:18:46	Officer B has her back to Officer A and Subject 1 while still appearing to use her radio.	 A photograph showing a police officer in a dark uniform standing on a sidewalk. The officer's back is to the camera. In the background, there is a yellow building with a sign that reads "WASH PERFECT COIN DRY" and a banner that says "FREE DRY NOW". A white car is parked in front of the building. The scene is outdoors on a street with a traffic light pole visible.
11:18:47	Officer B turns towards her partner and her weapon is visible and un-holstered.	 A photograph showing the same police officer in a dark uniform, now turned towards the camera. The officer's weapon is visible and un-holstered. The background is the same as the previous image, showing the yellow building with the "WASH PERFECT COIN DRY" sign and the "FREE DRY NOW" banner. A white car is parked in front of the building. The scene is outdoors on a street with a traffic light pole visible.



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11:18:49	Officer B bends back down towards her partner and Subject 1. Officer A's back is seen.	 A photograph showing a police officer in a dark uniform bending over on a wet street. In the background, there is a yellow building with signs that read "WASH PERFECT COIN DRY" and "FREE DRY NOW". A white car is parked on the street, and a street sign is visible.
11:18:50	Officer A flips over while Officer B is looking down and trying to re-holster her gun.	 A photograph showing a police officer in a dark uniform on the ground, appearing to be in a flipping or falling motion. The background is the same as the previous image, showing the yellow building with "WASH PERFECT COIN DRY" and "FREE DRY NOW" signs, a white car, and a street sign.

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11:18:50	Officer B has not holstered her weapon and appears to be looking down at her partner through her hair/bangs.	
11:18:51	Officer B grabs Subject 1's left arm with her left hand and points her gun at Subject 1 with her right hand while Subject 1 attempts to flee.	

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11:18:51	Subject 1 breaks away from Officer B while her weapon is still pointed on Subject 1.	
11:18:52	Subject 1 falls out of frame while Officer B has her right arm pointed in Subject 1's believed direction.	

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11:18:53	Officer B re-holsters her gun.	
11:19:40	Officer I and Officer J run up to the scene from the alley.	

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11:20:11	A witness, Civilian 1, is seen making arm gestures and apparently shouting towards the scene.	
11:20:33	Officer K and Officer C are seen running up towards the scene from the alley.	

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11:20:36	Officer C is seen running towards Civilian 1 with arms extended.	
11:20:36	Civilian 1 is seen moving over a guardrail after Officer C pushes him.	







11:20:39
Officer C and Officer K
continue running
towards the scene of
Subject 1's shooting.







Similarly, **Security Camera Footage from the Phillips 66 Gas Station** was obtained that recorded Subject 1's shooting. The following chart details events in the video, along with an image and the approximate time of occurrence. (Att. 43)

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Approx. Time	Description	Image
11:17:29	The suspect Trailblazer is seen sliding sideways into a utility pole.	
11:17:30	The suspect Trailblazer continues spinning and sliding and comes to a stop shortly after.	
11:17:34	One of the Trailblazer's occupants is seen exiting from the vehicle's rear.	
11:17:35	A second individual is seen fleeing from the Trailblazer, the first individual is still running, and the CPD vehicle manned by Officer A and Officer B approaches.	

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11:17:37	A third individual is seen fleeing from the rear of the Trailblazer while the first two men continue running and the CPD vehicle draws closer.	
11:17:39	Subject 1 has exited last out of the Trailblazer, attempts to flee in the same direction as the previous three men, and is struck by the CPD vehicle.	
11:17:39	Subject 1 falls to the ground and the CPD vehicle continues driving over Subject 1's body.	
11:17:41	The CPD vehicle comes to a stop while Subject 1 is underneath the vehicle. The passenger door of the CPD vehicle opens.	

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11:17:44	Officer B moves to approach the front of the vehicle where Subject 1 was struck. Officer A moves towards the direction the three additional men fled.	
11:17:45	Officer A changes direction and goes toward his partner and Subject 1. Subject 1 is seen attempting to crawl out from under the CPD vehicle.	
11:17:49	Officer A is hunched down towards Subject 1 while Officer B runs towards the direction the other three men fled.	
11:17:50	Officer B runs back towards her partner.	

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11:17:53	Officer A is flipped over by Subject 1.		
11:17:54	Subject 1 turns away from Officer B and attempts to run as Officer B grabs Subject 1's left arm.		
11:17:55	Subject 1 falls to the ground.		
11:17:58	Officer A stands up and approaches Subject 1 on the ground.		

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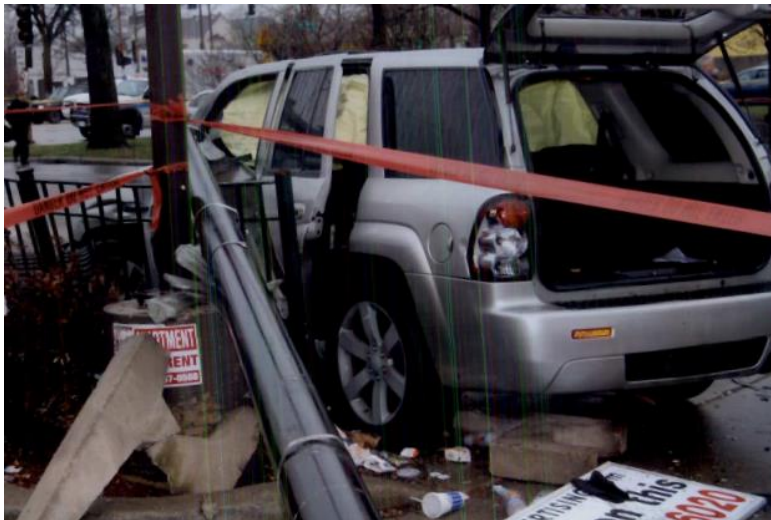
11:18:00	There appears to be a struggle with Subject 1 on the ground involving at least two officers, one of whom appears to be Officer A.	
11:18:21	The struggle appears to cease.	
11:18:41	Additional officers and CPD vehicles begin arriving on scene.	

CPD Crime Scene Processing Report was completed for **RD# XXXXXXXXX**. Multiple items were inventoried from this scene including two expended shells, clothing, tools, and biological samples. Specifically, a four-inch-long black metal flashlight was recovered near the front, passenger side of the CPD vehicle. A black “firm grip” glove was also found on the scene, as was a Blackberry cellphone. A pair of bolt cutters was found within the Trailblazer. Additionally, photos were taken of the scene and of the deceased. The photos showed a gunshot wound to Subject 1’s left hip, groin, and right thigh, and to his left back area. A dark glove was on Subject 1’s left hand at the time of his death⁵. (Att. 15)

⁵ This glove was never analyzed in any Department reports obtained by COPA. Neither Officer B or Officer A recalled seeing a glove on Subject 1.

CIVILIAN OFFICE OF POLICE ACCOUNTABILITY
LOG #1059031 / U# 12-47

On December 15, 2012 at approximately 1230 hours, CPD Crime Scene Photographer, Officer L, took **Photos of the Scene of Subject 1's Shooting**, a sampling of which is included below. (Att. 16)







Lab Reports were obtained from the **Illinois State Police (ISP)** related to Subject 1's shooting. Available documents reported that ISP performed testing on a black flashlight and batteries found inside the flashlight. These exhibits did not "reveal any latent impressions suitable for comparison." ISP also tested a blood standard obtained from Subject 1 and swabs from both the flashlight and from inside the suspect Trailblazer. DNA found on the flashlight was "interpreted as a mixture of at least two people" and Subject 1's DNA could not be excluded from the DNA found on the flashlight. A set of bolt cutters found in the Trailblazer also lacked "any latent prints suitable for comparison." Furthermore, ISP confirmed that the two bullets recovered from Subject 1's body were fired from Officer B's gun. (Att. 122)

A **Chicago Fire Department (CFD) Run Sheet** was located regarding the ambulance that arrived on scene to Subject 1's shooting. The responding CFD personnel reported that when they arrived at approximately 11:21 AM, Subject 1 had already expired, was not breathing, and lacked a pulse. Subject 1 was in handcuffs and laying on his stomach when CFD arrived. CFD left the scene with the deceased at approximately 11:33 AM. CFD stated that Subject 1 was shot by police. Subject 1's body was transported to the nearest hospital "due to unsafe scene conditions." Subject 1 was pronounced dead on arrival at Holy Cross Hospital and was then transported to St. Bernard's. Subject 1 was not immediately identified by emergency personnel as he lacked any form of identification on his body. (Att. 56)

IPRA conducted an **Interview** with accused **Officer B** on November 19, 2013. Officer B related that on December 15, 2012, she was partnered with Officer A. Officer B recalled that the weather that day was rainy and "kind of cold." Officer B stated that she was in the passenger seat while Officer A was driving. The officers heard a radio transmission regarding "an armed robbery in progress" so they drove towards the area of the reported robbery at 38th and Kedzie to look for the suspect vehicle. Officer B could not recall if she reported via Dispatch that she was headed in that direction. Officer B learned that "four male blacks jumped out of a silver gray Trailblazer and broke the seal from the back of a semi-truck" while the truck was stopped at a red light. She learned the suspects removed some televisions and placed them in their vehicle. Officer B recalled that Dispatch related the offenders were armed. Approximately 30 minutes later, the partners heard a similar call with similar circumstances related to a robbery near 54th and Western. Officer B remembered Dispatch urging to use caution as the suspects were armed. Officer B later learned "somehow" that the suspect vehicle had a temporary Indiana license plate. Officer B stated she and Officer A were traveling south on Western Avenue when they heard that the vehicle was seen near 50th and Western so they headed in that direction. The partners observed a car that matched the description of the suspect vehicle from the first armed robbery and second robbery. Officer B could tell approximately four people or more were inside of the car.

Officer B stated that she and Officer A engaged their lights and sirens in an attempt to pull the car over. When they pulled behind the car, Officer B “could see the Indiana tag which kind of concluded that we knew for sure that, you know, this was the vehicle that was wanted for those armed robberies.” Officer B related that she went on the radio to report that they were in pursuit of the vehicle, which Dispatch acknowledged. Officer B stated that at some point, a supervisor acknowledged pursuit. Officer B stated that she believed Officer A was driving about 70 miles per hour, though she could not “say for sure.” Officer B reported that they could see the suspect vehicle at all times during the pursuit.

Next, Officer B stated that she saw the suspect vehicle “spin out” near Ashland and Garfield. The driver of the vehicle lost control and the vehicle “struck a pole.” Officer B related that she radioed Dispatch regarding the crash and she saw three black males exiting the rear of the suspect vehicle with a fourth individual (identified as Subject 1) shortly after. Officer B stated that Officer A was attempting to stop their vehicle when the CPD vehicle slid and struck Subject 1. Once the CPD vehicle stopped, the two officers exited their vehicle and both attempted to place Subject 1 in custody while he struggled with the officers. Officer B stated she and Officer A were giving Subject 1 “verbal commands” and attempting to control Subject 1. Specifically, she said she gave verbal commands like, “Show me your hands. Let me see your hands. Stop resisting.” Officer B related that Subject 1 refused to give the officers his hands and Subject 1 was not allowing Officer A to put Subject 1’s hands into handcuffs. Officer B stated that initially, she was “hands on” with Subject 1 but she thought her partner had control of Subject 1 so she got up and radioed Dispatch about the three men who evaded the officers. According to Officer B, when she turned back towards Officer A and Subject 1, she observed her partner “losing this fight” with Subject 1. Officer B related that she had her gun in hand but she could not recall the exact moment she had brought her gun out. Officer B reported she had her gun drawn because Dispatch had reported the offenders were armed. Officer B stated that when she went to help her partner, she tried to holster her firearm because “at that particular time” she “did not see a threat.” She explained that the type of threat she was looking for was “[w]hat the dispatcher was saying, that they were armed.” She confirmed she did not see anybody armed “[a]t that particular point.” She elaborated that she tried to holster her weapon because she did not see a weapon at that time and wanted her hands free to assist her partner. Subject 1 then lifted Officer A and flipped Officer A over. Officer B recalled that Subject 1 was face down on the ground when they tried to place him in handcuffs. Officer B did not know how Subject 1 was able to get ahold of Officer A but her partner landed on the ground.

Officer B saw Subject 1 rising to his feet and she saw what she “thought at that time was a gun,” in Subject 1’s right hand and pointing in Officer B’s direction. Officer B related that she was not parallel to Subject 1 but was “staggered” and “had a frontal view of him.” Officer B said that Subject 1’s arm was not extended towards her. Rather, it was close to his body with his ha

nd and object pointed in the officer’s direction. Officer B reported that she then yelled, “Gun! Gun!” and “fired two shots in rapid succession.” Officer B related that she was never able to holster her weapon and therefore had her gun in her hand already. Officer B related that she was in fear of her own and her partner’s life, so she discharged her firearm. According to Officer B, she was to the left of Subject 1 when she fired and Officer A was on the ground. Officer B reported that she saw a black metal object in Subject 1’s hand which she believed to be a gun. Officer B related this object was pointed in her direction. Officer B reported that Subject 1 “fell to the ground,” while Subject 1 struggled and disobeyed their “verbal commands.” Officer A got Subject 1 into a “bear-type hug.” Officer B related that struggle ended after additional officers arrived. Officer B related that the first additional officer to arrive was Officer M. Officer B could not recall which supervisors she spoke with at the scene. Officer B stated that she reported on the radio that shots were fired by police and an ambulance was required. She could not recall if she radioed for a supervisor. (Atts. 82, 83, 85)

COPA conducted an **Interview with Officer B** on October 4, 2017. Prior to beginning the interview, Officer B invoked her Fifth Amendment right to remain silent. COPA telephoned Lieutenant Denham from the CPD Bureau of Internal Affairs, who gave Officer B a direct order to cooperate with the COPA investigation.

Officer B recalled that on December 15, 2012, she observed the suspect Trailblazer on 51st and Western Ave. Officer B stated that she and Officer A began the pursuit and never considered that they may have been pursuing the wrong vehicle. When asked how she knew this was the correct vehicle considering available dispatch messages reported various numbers of suspects, Officer B maintained that she never thought it was the wrong vehicle. Officer B stated that, when deciding the pursuit was safe, she personally considered the lack of pedestrians, light traffic, and her belief the CPD vehicle was driving at a safe and cautious speed. At no point did Officer B think the pursuit was unsafe, nor was she worried Officer A might lose control of the vehicle. Officer B said that she was always able to see the Trailblazer ahead. Officer B stated that she saw the Trailblazer spin out. However, Officer B was unable to describe what transpired for the Trailblazer to spin out and crash.

According to Officer B, she first saw Subject 1 at some point while turning into the gas station. Officer B related that the CPD vehicle slid and hit Subject 1 while it was turning into the gas station. According to Officer B, the only time she felt the CPD vehicle sliding was, as she previously stated in her IPRA interview, when they turned into the parking lot and struck Subject 1. After viewing the in-car camera video, Officer B believed that the CPD vehicle was always driving at a safe speed. In reference to the Traffic Pursuit Report from this incident, Officer B stated that, despite the fact that it was reported that the Trailblazer was going 20 miles per hour faster than the CPD vehicle, she was able to maintain a view of the Trailblazer at all times because there was no traffic. When asked to explain the discrepancy between Officer A claiming he maintained safe maneuvering and the CPD vehicle hitting Subject 1, Officer B maintained that there was safe maneuvering of the CPD vehicle. She was then asked the following question: "So you said that during the pursuit you maintained safe maneuvering. But obviously, there wasn't safe maneuvering when a pedestrian got struck; are you saying that the moment when Subject 1 was struck, was not part of the pursuit?" Officer B responded she was "not sure how to answer that." Officer B did not know why the CPD vehicle hitting Subject 1 was not included in the Traffic Pursuit Report, aside from the fact that it would be included in other reports and "there's not always a box for every single situation that arises" on police forms.

According to Officer B, after Subject 1 was struck and she and her partner exited the CPD vehicle, she thought Officer A had overpowered Subject 1 but she was incorrect as Subject 1 kept resisting. Officer B also related that she did not believe she had turned her back on her partner. Rather, she stated she looked in the direction the remaining three suspects had fled and radioed in. Officer B related that she went from trying to holster her weapon to shooting Subject 1 because she saw an object in his hand she thought was a gun. Officer B said that events occurred quickly. Officer B recalled that she did not see Subject 1's hands when Subject 1 was on the ground with Officer A and Officer A was on top. However, she said she was able to see Subject 1's hands "[a]t some point after he flipped Officer A." Officer B was unable to recall if Subject 1 used his hands while he was flipping Officer A or if Subject 1 had gloves on his hands. When asked whether she was looking directly at Subject 1 when she shot at him, Officer B stated she was staggered and had a frontal view of Subject 1. Officer B denied that her hair was in her face or obscuring her vision.

Officer B stated, after reviewing the in-car camera footage, that she had her hand on Subject 1's arm when she discharged her weapon. Officer B stated that her goal in grabbing Subject 1 was to apprehend the suspect. Officer B elaborated that apprehending the suspects was her goal from the beginning. Officer B said that if she had not already been holding her firearm and had been able to holster her weapon, she believed she still would have reached for her gun because she feared for her and her partner's life and perceived a threat from

Subject 1. Officer B could not pinpoint in the video when she said “gun, gun.” She said it was “hard to tell on the video because it happened so fast.” She recalled that she said, “gun, gun” sometime after Officer A was flipped by Subject 1, when she “perceived the threat.” Officer B could not remember if she saw the flashlight attributed to Subject 1 after Subject 1 was shot due to the traumatic nature of the events. Officer B carried a flashlight as a police officer, and she did not lose her flashlight that day. She said there was not a reason why she did not specify the type of weapon Subject 1 was carrying in her TRR. Officer B also did not know why the flashlight was not included in her TRR or whether it had to be. Officer B described Subject 1 as an imminent threat of battery because she believed Subject 1 had a gun. Officer B related that because of this perception, she believed Subject 1 was an assailant at the time he was shot. Officer B was unable to recall the exact placement of Subject 1’s right arm when she thought she saw a gun in his hand. Officer B was asked whether she grabbed Subject 1’s arm at the same time that she had a frontal view of Subject 1 and saw an object in his hand. Officer B responded, “I’m sorry. Ask me the question again. It’s just—it’s so—to try to dissect something that happened really fast, it’s hard sometimes.” Officer B was then shown stills of the in-car camera video and asked which still depicted when she first saw an object in Subject 1’s hand. She agreed that she first saw the object after the first still, which showed her trying to holster her weapon. She then said she could not tell from the stills if she saw the object before or after she reached for Subject 1’s arm. (Atts. 38, 39, 82)

On December 5, 2013, **IPRA Interviewed Officer A.** Officer A stated that on December 15, 2012, he was partners with Officer B. Officer A stated that he was the driver in their CPD vehicle when they heard a radio call about an armed robbery at 38th and Kedzie. Officer A stated that they proceeded to 38th and Kedzie and heard that they were looking for a silver Trailblazer with “some occupants.” Officer A related that the first transmission and subsequent messages indicated that one of the subjects in the suspect vehicle was armed. Officer A reported that he and Officer B drove around looking for the vehicle when they received another call with a similar vehicle description that was “hitting trailers” at 54th and Western. Next, a call came in that the suspect vehicle was seen near 50th and Western. When asked whether he heard again, at any point, that people in the vehicle were possibly armed, Officer A stated “[t]hey had said it prior, so I was assuming the same thing.” Officer A observed the suspect vehicle near 50th and Western. According to Officer A, he approached the suspect vehicle at a traffic light, at which point the suspect vehicle “took off” and Officer A and his partner began a pursuit. Officer A turned his lights and sirens on at 51st and Western.

Officer A said that he and Officer B called in the pursuit. Officer A related that he followed procedure in the chase and had sufficient grounds to pursue. Officer A recalled that the weather was rainy on this date, which he took into consideration. He could not recall his exact speed. Officer A related that he never lost sight of the Trailblazer during the pursuit and he was aware of his surroundings and the weather conditions. When Officer A initiated the chase, the SUV was four to five car lengths in front of Officer A and Officer B’s car. The greatest distance between Officer A and Officer B’s car and the SUV during the chase was “[p]robably about a half a block.” Officer A did not recall any supervisor or anyone else ever telling him over the radio to discontinue the chase.

According to Officer A, the chase continued for approximately a mile and a half. When asked whether he slowed down at intersections, Officer A said he “slowed down, you know, 55th and Damen is a little iffy.” Officer A reported that once the suspect vehicle approached Ashland, it swerved to miss a vehicle, lost control, spun, struck a light pole, and crashed into a fence at the gas station. Officer A indicated he was about half a block or less away when the Trailblazer crashed and spun. He slowed down through the intersection at Ashland after observing the crash. Officer A reported that some of the passengers in the Trailblazer were exiting through the vehicle’s tailgate and running away. Per Officer A, once he was past the crashed vehicle, a subject (identified as Subject 1) was exiting the Trailblazer and Officer A stopped the car. Officer A related that he applied the brake, slid into Subject 1, hit Subject 1, and Subject 1 went under the vehicle. Officer A stated that

Subject 1 appeared coming out of the back of the suspect vehicle and the CPD vehicle struck Subject 1. Officer A could not recall if Officer B had her weapon out once he stopped the CPD vehicle and the officers exited.

Officer A reported that when he exited the vehicle, he was looking at the three individuals running away and did not see what either Subject 1 or Officer B were doing. Officer B yelled to Officer A “He’s coming out,” referring to Subject 1. Once Officer A realized Subject 1 was crawling out from under the car, he went to place Subject 1 into custody. Officer A related that Subject 1 was face down and he was to Subject 1’s left while attempting to grab Subject 1’s left hand to place into handcuffs. Officer A said to Subject 1, “Put your hands by your back.” Officer A related that once Subject 1 began to stand up, Officer A was flipped. Officer A reported that he was “too high” on Subject 1’s shoulders so Subject 1 gained leverage to flip the officer by throwing Officer A over his head while Subject 1 was standing up with the officer’s chest to Subject 1’s back. Officer A recalled that when he began standing up, he heard Officer B yell, “Gun! Gun!” and she fired two shots. Officer A stated that he was on the ground between Officer B and Subject 1 when Officer B shot. When asked whether Officer A believed his life was in danger when Officer B fired, Officer A replied, “I believe [Subject 1] had a gun and that’s why she fired.” Officer A then stood up while Subject 1 fell to the ground. Officer A related he initially went to the left side of Subject 1 to try to handcuff him, but Subject 1 was “still struggling” and trying to pull away. Officer A then got on top of Subject 1 and placed Subject 1 into a “bearhug” to restrain him until another officer could assist. Officer A related Officer M was the first on scene and Officer M asked Officer A “[w]here is it?,” which Officer A explained meant where was the weapon. Officer A stated that he felt an object between himself and Subject 1 on Officer A’s right side. Officer A told Officer M, “I think it’s underneath me.” Officer A then rolled Subject 1 over. At that point, Officer A found a small, black “Maglite” flashlight on the right-hand side. Officer A related that his partner called for an ambulance and additional officers were arriving. Officer A reported he sustained a sprained ankle and a mark on his face from his interaction with Subject 1. (Atts. 88, 89)

COPA conducted an **Interview** with **Officer A** on October 4, 2017. Officer A related that on December 15, 2012, he observed the suspect Trailblazer near 51st and Ashland and knew its location after receiving a notification from an outside unit. Officer A could not recall whether he ever saw the vehicle’s license plate. He said the vehicle “matched the exact description” and make of the vehicle previously described by the outside unit. Officer A stated the vehicle was wanted for armed robbery.

Officer A related that he “nosed up⁶” to the suspect vehicle to see what the vehicle would do. When Officer A and Officer B approached the vehicle, it drove off, and the officers initiated a pursuit. Officer A reported that he immediately gave chase and did not discuss the issue with Officer B. According to Officer A, there was no pedestrian traffic until Garfield Boulevard and only “a few cars” on the road. Officer A denied driving too fast for the conditions during the pursuit. He said he was never concerned about striking a pedestrian or another vehicle during the pursuit. According to Officer A, when deciding the pursuit was safe, he considered the type of call, traffic and pedestrian volume, location, and weather. He described there being a “light rain” on the day of the pursuit and said it was cold. Officer A stated that he never thought the pursuit was unsafe and he never considered that he was pursuing the wrong vehicle. He also never considered that the people in the car were not armed, explaining that “[a]t the start of the chase, we assumed they were armed. It was coming over the radio multiple times.” Officer A said the CPD vehicle went through three intersections. He slowed down at the first intersection, Western, but believed that the light was green at the other intersections.

Officer A denied ever attempting to overtake the Trailblazer. He stated that one point in the in-car camera at the 11:17:02 time mark, he was attempting to gain speed to approach the vehicle. The officer stated

⁶ Officer A explained he moved the front bumper of his car toward the bumper of the suspects trailblazer

that he never lost sight of the Trailblazer during the pursuit. According to Officer A, he and a sergeant completed the Traffic Pursuit Report (Attachment 13) for this incident. Officer A maintained that he was always able to see the Trailblazer despite the suspect vehicle driving approximately 20 miles per hour faster because there was a “clear shot” down the street. Officer A stated that he personally observed the Trailblazer spin out and crash near 55th and Ashland after the Trailblazer “went into the red light at Ashland.” Officer A assumed that the Trailblazer swerved to miss traffic and spun.

According to Officer A, when he turned into the gas station parking lot, Subject 1 came out of the rear of the Trailblazer in front of the CPD car, “attempting to flee on foot,” and was struck by the CPD vehicle. Officer A could not recall how fast he was driving as he turned into the gas station parking lot. Officer A said that the CPD vehicle slid when he struck Subject 1. Officer A related that he saw Subject 1 for a “split second” before Subject 1 was struck. Officer A denied intentionally hitting Subject 1 with the CPD vehicle. He also stated that he applied the brakes once he saw Subject 1, but he did not have enough time to avoid contact with Subject 1. Subject 1 went under the CPD vehicle. Officer A stated that Subject 1 being struck was omitted from the Traffic Pursuit Report because the pursuit ended once the Trailblazer crashed. Therefore, once Subject 1 was hit, the pursuit was over. Officer A denied ever losing control of the CPD vehicle.

Officer A stated that when he exited the vehicle, he initially ran after the three offenders who had fled. Officer B then alerted Officer A that Subject 1 was “coming back out.” When Officer A looked back, he saw Subject 1 crawling out from under the car. Officer B approached Subject 1, but Officer A pushed her out of the way and tried to get on top of Subject 1 “to get control of his hands.” Officer A related that Subject 1’s hands and arms were underneath Subject 1’s torso and Officer A could not see Subject 1’s hands. Officer A related that he was trying to flatten Subject 1’s body to gain access to Subject 1’s hands when Subject 1 stood up and flipped Officer A.

Officer A stated that he could not see Subject 1’s hands when he was being flipped and could not recall if he felt anything in Subject 1’s hands when Subject 1 flipped the officer. Officer A stated that he did not see Officer B fire her weapon but, after he was flipped, Officer A heard Officer B state, “gun, gun” and then fire her weapon. Officer A stated that he was approximately two feet from his partner when Officer B discharged her weapon. Officer A stated that at no point did he see Subject 1’s hands prior to Subject 1 being shot. When asked to show the point at which Officer B stated, “gun, gun,” from the in-car video, Officer A related that it was shortly after Officer B moved to re-holster her weapon and before she discharged her gun.

Officer A stated that after Subject 1 was shot, Officer A put Subject 1 in a “bearhug” around Subject 1’s shoulders and held Subject 1 until Officer M arrived, at which point they placed Subject 1 into handcuffs. Officer A related that there was some blood on his body while he was restraining Subject 1 that was not the officer’s blood. Officer A related that he was not able to see Subject 1’s hands after Subject 1 was shot. Officer A stated that he felt an object between himself and Subject 1 near Officer A’s right hip. Officer A stated that there was nothing in Subject 1’s hands once Subject 1 was ultimately handcuffed but there was a flashlight on the ground next to Subject 1’s body. Officer A could not recall if Subject 1 was wearing gloves. Specifically, when asked whether Subject 1 was wearing gloves, Officer A stated, “I can’t recall. I don’t—to the best of my knowledge, being it’s so long ago, I say, no.” Officer A denied that his flashlight or any other object ever came off his vest during his struggle with Subject 1.

Officer A explained that when he stated in his Officer’s Battery Report (Attachment 12) that he was involved in an aggravated assault with a handgun, he was referring to the flashlight, which was originally believed to be a gun. He could not provide a reason as to why he indicated in his TRR that Subject 1 was armed

but did not specify that the object that was found was a flashlight. Officer A also could not explain why the other reports did not specify that the object found was a flashlight. (Atts. 38, 81)

On October 2, 2017, COPA **Interviewed Officer C**. Officer C stated that on December 15, 2012, he was partners with Officer K. Officer C related that on this date, he had not been monitoring Dispatch message related to truck robberies. However, the officer was aware of the pursuit involving Subject 1 because he heard it over CPD radio transmissions. Officer C reported that he was not involved in, nor did he observe the pursuit. A video (Attachment 18) was played for Officer C during his COPA interview and he identified himself at the approximately 11:20 AM time mark as the officer seen shoving a man in a blue sweatshirt (identified as Civilian 1). Officer C stated that on December 15, 2012, he was on an active crime scene of a police shooting. Officer C did not recall Civilian 1 or pushing Civilian 1 until viewing the video during his COPA statement. According to Officer C, Civilian 1 was on the crime scene and Officer C and his partner approached while yelling at Civilian 1 to get back. Officer C recalled that Civilian 1 was yelling statements towards the female officer (identified as Officer B) along the lines of "we want her" and "get her." Officer C stated he pushed Civilian 1 because Civilian 1 was on the crime scene and refused to get back. Officer C related that he had been yelling from the "get go" to get back and heard other officers also yelling at civilians to get back. Officer C indicated that Civilian 1 was the only civilian on the gas station side of the barrier separating the laundromat and gas station parking lots. Officer C believed that his use of force in this situation was justified and he did not believe he pushed Civilian 1 too hard. Officer C identified Civilian 1 as an assailant on the use of force model because Civilian 1 was yelling at officers, including threats towards Officer B, and because Civilian 1 refused to get off the crime scene. Officer C believed Civilian 1 was too close to the crime scene because the deceased was still present. Per Officer C, Civilian 1 was not arrested because the officer's main concern was the crime scene and officer safety. Officer C related that there was a lot of things happening and Civilian 1 was not his focus. (Atts. 137, 138, 139)

COPA conducted an **Interview** with **Officer K** on October 2, 2017. Officer K stated that on December 15, 2012, he was on tactical patrol in the 9th District with Officer C. Officer K related that he was not monitoring any messages related to tractor-trailer robberies. Officer K recalled a pursuit and being at a gas station at 55th and Ashland. However, Officer K stated that he was not involved in the pursuit, nor did he observe the pursuit. Officer K reported that he and Officer C approached the gas station and initially attempted to locate suspects who had fled. Officer K related that he never observed any of the fleeing suspects. According to Officer K, when they arrived at the gas station, they saw several squad cars on Garfield Boulevard and in the gas station parking lot, in addition to Subject 1's body on the ground. Officer K recalled that civilians were present who were yelling and pointing. Officer K was shown a video (Attachment 18) of Officer C shoving a man identified as Civilian 1. Per Officer K, Officer C shoved Civilian 1 because Civilian 1 was on the gas station side of the guardrail between the laundromat and the gas station. Officer K related that the guardrail was acting like a barrier for the crime scene. Per Officer K, he and his partner were telling Civilian 1 to get back as they approached. Civilian 1 refused so Officer C pushed Civilian 1 back. Officer K described Officer C's use of force against Civilian 1 as appropriate. (Att. 140)

IPRA completed an **Interview** with **Sergeant A** on November 6, 2013. Sergeant A stated that on December 15, 2012, he monitored radio calls that included a man being dragged out of a car and beaten, as well as a robbery near 38th and Kedzie. The sergeant stated that he responded to the scene at 38th and Kedzie where he learned four or five black males had exited a silver SUV and stolen televisions from the back of a semi-truck. Sergeant A learned that witnesses saw one of these men armed with a handgun. Sergeant A reported that additional officers sent a flash message with a description of the vehicle and he began driving around the area to search for the described vehicle. Next, the sergeant heard an OEMC call regarding a truck being robbed near 54th and Western with a description of a silver Trailblazer cutting open the back of a truck.

Furthermore, Sergeant A monitored Officer B and Officer A, who observed the suspect vehicle, tried to stop the car, and initiated a pursuit. The sergeant stated that he believed it was Officer B speaking on the radio. The sergeant recalled that he confirmed via radio that he, as a supervisor, was monitoring the pursuit. Sergeant A stated that he heard a description of the vehicle and the direction of flight, so he headed towards that location. The sergeant stated that it was “drizzling out” but he did not observe much traffic. According to Sergeant A, he did not terminate the pursuit due to the severity and number of crimes the SUV was wanted for, as well as the information he obtained from witnesses that the offenders were armed. The sergeant stated that he asked what the speeds of travel were for the pursuit to determine if it was safe to continue. Sergeant A reported that shortly after he asked about the speeds, he heard officers on the air say that the suspect vehicle had crashed and did not get an answer to this question. Sergeant A reported that he may have terminated the pursuit if the speeds involved were too high. Sergeant A observed a crashed vehicle when he approached the scene and prior to his arrival, he heard via radio that shots were fired. (Att. 81)

On November 27, 2013, IPRA completed an **Interview** with **Officer N**. Officer N stated that on December 15, 2012, he was monitoring radio calls of armed suspects who had robbed numerous trucks in the 9th District. Officer N stated that he was at the intersection of 51st and Western when he saw a vehicle matching the description of a silver SUV with Indiana plates wanted in relation to the truck robberies. Officer N radioed in the vehicle’s location and shortly after, Officer A and Officer B arrived in a marked CPD vehicle. The suspect vehicle then turned and drove south on Western and Officer A followed. Officer N stated that he was behind Officer A in an unmarked vehicle. Officer N reported that suspect vehicle began driving faster, so Officer A continued with lights and sirens while Officer N followed with his lights and sirens also engaged. Officer A and Officer B took over as the primary car. Officer N believed he was approximately 30 – 40 feet behind Officer A and Officer B. According to Officer N, the silver SUV kept speeding and both the suspect SUV and Officer A and Officer B were further away from Officer N. Officer N reported that suspect vehicle turned on Garfield Blvd. heading west and the two police cars kept following. The suspect vehicle increased speed and sped away from Officer A, who in turn pulled away from Officer N. Officer N estimated he was about a block and a half from the suspect vehicle and about three quarters of a block from Officer A. Officer N reported that when he reached Garfield and Ashland, he saw a large splash and guessed, correctly, that the suspect vehicle had crashed. Per Officer N, the two CPD vehicles approached and individuals were seen leaving the crashed SUV. Officer N stated that he continued east and then south in an effort to follow the approximately three men running from the Trailblazer. Officer N then heard Officer B on the radio reporting shots fired, at which point Officer N returned to scene of the crashed SUV on 55th and Ashland. Officer N stated when he arrived he saw Officer B, Officer A, and at least two additional officers with the subject (identified as Subject 1) on the ground. Officer N stated that he did not see Officer B shoot Subject 1. (Att. 86, 87)

On December 15, 2012, a witness named **Civilian 14** telephoned IPRA and provided a **Statement**. Civilian 14 told IPRA that he was inside the gas station at 55th and Ashland and while exiting, he heard a truck sliding in traffic. Civilian 14 then saw a gray Trailblazer had hit a pole outside the gas station and five black men were jumping out of the Trailblazer. Civilian 14 stated that a CPD Tahoe was shortly behind the Trailblazer and hit one of the men who was attempting to flee (identified as Subject 1). Civilian 14 stated that Subject 1 tried to get out from underneath the CPD vehicle and wrestled with the officers before pushing off a male officer (identified as Officer A). Civilian 14 heard a female officer (identified as Officer B) yell, “Don’t move,” before Civilian 14 heard two gunshots. According to Civilian 14, Officer B shot Subject 1 in the back two times. Civilian 14 did not know what happened with the additional men who had fled, nor did Civilian 14 see an object in Subject 1’s hand. (Att. 31)

On December 15, 2012 at approximately 5:04 PM, IPRA **Interviewed Civilian 14**. Civilian 14 related that he was exiting a gas station near 55th and Ashland when he saw a gray Jeep Cherokee being chased by an Illinois State Trooper down Garfield Boulevard. Civilian 14 then saw the gray SUV speeding into a pole followed by four black males exiting the vehicle and a fifth man attempting to exit from the rear hatch. Civilian 14 then saw a CPD Tahoe speeding into the gas station and running over one of the men (identified as Subject 1). Civilian 14 reported that a second marked CPD Tahoe arrived. Civilian 14 related that Subject 1 then struggled with a male officer (identified as Officer A) and Subject 1 pushed Officer A off Subject 1's body. Civilian 14 stated that a female officer (identified as Officer B) told Subject 1 not to move. Civilian 14 stated Subject 1 was attempting to get up when Officer B fired two shots at Subject 1's back at "point blank range." Per Civilian 14, Subject 1 was "fucked up from the truck" and could not have reached for a weapon or have gotten far from Officer B. Civilian 14 saw no weapons in Subject 1's hands. Civilian 14 stated he was approximately 10 feet away and to the right of the gas station's door when Subject 1 was shot. Civilian 14 stated Subject 1 was already deceased after he was placed in handcuffs. Civilian 14 opined that Officer B shot Subject 1 because she was irritated and scared. (Att. 26)

IPRA **Interviewed Civilian 15** on December 15, 2012. Civilian 15 telephoned IPRA and reported that she witnessed a traffic accident that led to a police shooting. Civilian 15 gave a statement via phone. According to Civilian 15, she and her husband, Civilian 26, were at the Phillips 66 Gas Station located on 55th and Ashland when she heard a crash and saw a SUV had struck a pole outside. Civilian 15 related that her husband was by a gas pump and she was inside when this occurred. Additionally, Civilian 15 elaborated that she saw a CPD Tahoe hit a black male (identified as Subject 1) as Subject 1 ran from the street towards the gas station. Civilian 15 then saw officers (identified as Officer B and Officer A) exiting the Tahoe and attempt to place Subject 1 in handcuffs. Civilian 15 related that Subject 1 and the officers had a "brief struggle" before she heard "two or three shots." Civilian 15 did not see a weapon in Subject 1's hand or know what Subject 1's injuries were. Per Civilian 15, additional officers arrived and when she attempted to report that Officer A and Officer B "killed him for no reason," officers related to Civilian 15 they did not care. (Atts. 30, 36)

On December 15, 2012, IPRA received a telephone call from a witness named **Civilian 16**, who gave IPRA a **Statement** via phone. Civilian 16 related that she was about to enter the Phillips 66 Gas Station when she heard a truck crash, followed by several black men jumping out of a truck and running away. Per Civilian 16, one of the men (identified as Subject 1) was trying to run away when a CPD Tahoe ran Subject 1 over. The officers in the Tahoe then went to pull Subject 1 out. Civilian 16 observed Subject 1 was struggling with the officers and then she heard multiple gunshots. Attempts to re-interview Civilian 16 were unsuccessful. (Att. 32, 34)

On December 15, 2012, IPRA received a telephone call from a witness named **Civilian 17** who gave a **Statement** via phone. Civilian 17 reported that she was waiting for a bus near 55th and Ashland and was across the street from the gas station when she saw a SUV strike a pole and several black men fleeing from the SUV. Civilian 17 stated that she thought she saw a CPD vehicle hit the car, but was unsure. Additionally, Civilian 17 saw a white male officer (identified as Officer A) wrestling with a black male (identified as Subject 1). Civilian 17 related that while Officer A and Subject 1 were wrestling, she heard four or five gun shots and saw Subject 1 laying on the ground. Civilian 17 did not see a gun in Subject 1's hands but did see what she thought was a cellphone in Subject 1's hand. However, she was unable to identify whether she saw the phone when Subject 1 emerged from the police vehicle, during the struggle or after the shooting. Attempts to re-interview Civilian 17 were unsuccessful. (Atts. 33,37)

IPRA attempted to **Interview** an additional witness, **Civilian 11**, on December 17, 2012. Civilian 11 told IPRA to speak with her grandfather, Civilian 18. Civilian 18 related to IPRA that Civilian 11 spoke to CPD

following Subject 1's shooting and that officers refused to let Civilian 11 leave the police station after several hours and that she was not allowed to leave until Civilian 18 came to get her. Civilian 18 also stated that Civilian 11 was intimidated by the detectives and was afraid of cooperating with the investigation. IPRA spoke with Civilian 11 again and she confirmed that she did not want to cooperate with the investigation after how CPD detectives treated her. Additional attempts to interview Civilian 11 were unsuccessful. (Att. 39, 54)

On December 15, 2012, IPRA went to **St. Bernard Hospital**, located at 326 W. 64th St., and spoke with Doctor 1. Doctor 1 told IPRA that Subject 1 was dead on his arrival to the hospital and that Subject 1 should not have been brought to St. Bernard. Doctor 1 observed wounds to Subject 1's left hip, left pubic area, right thigh, and left/middle back but he did not examine Subject 1. (Att. 35)

A **Postmortem Examination** was conducted on Subject 1's body on December 17, 2012 by Cook County Medical Examiner 1. Before the examination, Subject 1's body was handcuffed behind his back with a black glove on his left hand. Subject 1's clothing was observed to be soaked in blood. Medical Examiner 1 noted a gunshot entry wound to Subject 1's left hip that traveled from left to right, going through his penis and striking his inner right thigh. Medical Examiner 1 described a second gunshot wound that entered Subject 1's lower left rear torso and moved upward through his body from left to right with the bullet ending in his upper right arm. Medical Examiner 1 ruled Subject 1's cause of death to be homicide from multiple gunshot wounds. (Atts. 40, 53, 58)

Federal Civil Lawsuit XX-CV-XXXXX

COPA obtained the docket and several documents relating to the federal lawsuit pertaining to this matter, XX CV XXXXX, which was filed on June 18, 2014 in the United States District Court for the Northern District of Illinois. The plaintiffs in that case were Subject 1's mother, Civilian 19, on behalf of Subject 1's estate; Subject 1's sister, Civilian 20; and Subject 1's son, Civilian 21. The defendants included the Chicago Police Department, Officer B, and Officer A.

The plaintiffs' **Fourth Amended Complaint**, filed on January 23, 2014, contained twelve counts: wrongful death claims filed pursuant to 42 U.S.C § 1983 and Illinois state law (counts I through III); "survival" claims pursuant to 42 U.S.C § 1983 and the Illinois Survival Act (755 ILCS 5/27-6) (counts IV through VI); a "survival" claim for failure to intervene pursuant to 42 U.S.C § 1983 and the Illinois Survival Act (count VII); a conspiracy claim filed pursuant to 42 U.S.C § 1983 (count VIII); a negligence claim for failure to preserve evidence (count IX); a claim of intentional infliction of emotional distress (count X); a failure to supervise claim (Count XI); and an indemnification claim (count XII).

Counts I through VI of the plaintiffs' Fourth Amended Complaint were based on Officer B's firing of her weapon at Subject 1. The plaintiffs alleged, *inter alia*, that Officer B's use of force was unnecessary and/or excessive where Subject 1 did not engage in any act that justified the use of lethal force by Officer B. Count VII alleged that other officers failed to intervene in Officer B's actions, and count VIII alleged that Officer A and Officer B and other officers engaged in conspiracy in that they knew Officer B never suspected Subject 1 had a weapon. Count IX alleged the officers were negligent in their preservation of evidence; count X alleged several officers on scene used the word "nigger" repeatedly towards Civilian 19 and Civilian 20; count XI alleged Commander B ignored his duties and did nothing to stop the taunts and verbal abuse levied against Civilian 19 and Civilian 20; and count XII alleged the City of Chicago should indemnify any claim against any of the defendant officers. (Atts. 94, 120)

In April 2014, the defendants moved for summary judgment on all of the plaintiffs' claims, filing a **Motion for Summary Judgment** (Att. 145), a **Memorandum** in support thereof (Att. 95), and a **Rule 56.1(a)(3) Statement of Uncontested Material Facts** (Att. 96). In May 2014, the plaintiffs filed a **Response to the Defendants' Rule 56.1(a)(3) Statement of Additional Facts** (Att. 121) and an **Amended Memorandum of Law** in response to the plaintiffs' motion for summary judgment (Att. 146). Thereafter, the defendants filed a **Reply** in support of their motion for summary judgment (Att. 147) and a **Response to Plaintiffs' Rule 56.1(a)(3) Statement of Additional Facts**. (Atts. 97-98)

In May 2014, the district court denied the defendants' motion for summary judgment with respect to counts I through VI and XII of the plaintiffs' Fourth Amended Complaint and granted it with respect to counts VII through XI. The court dismissed CPD Officers Detective A, Sergeant B, Officer C, and Officer P, such that the only remaining defendants were Officer B and Officer A and the City of Chicago. In July 2014, the district court entered an agreed order of dismissal, indicating the parties had agreed to settle the matter. (Att. 94)

The parties attached several depositions to their summary judgment pleadings. Summaries of those depositions are as follows.

In her deposition, witness **Civilian 11** stated that on December 15, 2012, she had gone to the Phillips 66 Gas station with a co-worker named Civilian 12 in Civilian 12's blue Ford Explorer. Civilian 11 stated that the weather was rainy on this date. Once she and Civilian 12 arrived at the gas station, they went inside and shortly after heard a crash. Civilian 11 stated that she then walked outside and saw three or four men running away from a truck or a SUV. Civilian 11 observed that the vehicle had hit a pole. Civilian 11 saw another man exiting the vehicle and then a police vehicle hitting the man. According to Civilian 11, the police vehicle purposely struck Subject 1 to prevent him from eluding the officers. Next, Civilian 11 saw a male officer (identified as Officer A) pulling the man (identified as Subject 1) from under the police vehicle. Civilian 11 also saw the female officer (identified as Officer B). Civilian 11 related that she witnessed Officer A struggling with Subject 1, followed by Subject 1 picking up Officer A to "slam him to the ground," resulting in both men falling to the ground. Next, Subject 1 was "crawling" and attempting to "get away from the cop," while Officer A had Subject 1 gripped around the knees. Civilian 11 could not see whether anything was in Subject 1's hands. Civilian 11 stated she heard people shouting but did not hear anything from the officers. She indicated Officer B did not instruct Subject 1 to "Freeze" or tell him to put his hands up. Civilian 11 saw Officer B "step back and shoot" Subject 1 "in his back two times." Civilian 11 recalled that Subject 1 was lying on the ground on his stomach at the time he was shot. According to Civilian 11, Officer B stood by Officer A and Subject 1 "without even trying to even help the male cop resist him [...]" Her first reaction was to pull out her gun and shoot." Civilian 11 related that Subject 1 did not move after he was shot and she saw him in handcuffs afterwards. Civilian 11 stated that after the shooting, she observed a woman whom she thought might be related to the decedent because the woman was visibly upset. Civilian 11 related that she herself was sad, scared, and in shock after the shooting. Civilian 11 indicated that she thought Subject 1 had been "murdered," because he had been killed for "no apparent reason." (Att. 101)

In his deposition, **Officer M** stated that on December 15, 2012, he went to the gas station where Subject 1 was shot after he heard a call via CPD radio that "Officer A and Officer B were following a car that was wanted for breaking into boxcars or semi trucks [sic]" and that "there was a foot chase." Officer M stated that either Officer A or Officer B stated over radio that they saw the suspect vehicle near 50th and Western. Officer M heard Officer B on the radio stating that the suspects were "bailing out of the car" and running southbound on Justine, and she was giving descriptions of the suspects. Officer M related that when he approached the gas station, he saw Officer A "rolling around" on the ground with Subject 1 and decided to go the gas station. Officer M reported that he arrived on the scene after Officer B shot Subject 1 and he did not observe the

shooting. He arrived a minute or two after the shooting, and when he arrived, only Officer B and Officer A were on scene. Officer M believed other officers at that time were engaged in a foot chase down Justine. Per Officer M, he went to assist Officer A while Officer B appeared to be talking into her radio. Officer M did not know what Officer B was saying into her radio. Officer M related that when he approached, Officer A was laying on his back with Subject 1 on top of him and Subject 1's back to Officer A's front. Officer M described that Officer A had Subject 1 in "a bear hug from behind" and was holding onto Subject 1's arms. Officer M recalled Officer A stating something to the effect of, "it's under him, it's under him, it's under him." Officer M interpreted this comment to mean Subject 1 had a gun because Dispatch had previously related the suspects were armed. Next, Officer A rolled Subject 1 over on to himself while Officer M searched Subject 1's back but did not find anything. The two male officers then rolled Subject 1 off Officer A and onto Subject 1's stomach. Officer M related that Subject 1 was still alive when they placed him in handcuffs because Subject 1 was struggling with the officers and resisting arrest by pulling away his arms. Officer M recalled that he got Subject 1's blood on his hands while attempting to apprehend Subject 1. Officer M believed that Officer A also had blood on his hands. The two male officers then continued to search Subject 1 but found nothing. Officer M related that when he stood up, he saw "the flashlight laying on the ground between Subject 1 and Officer A." Officer M reported he did not see the flashlight in Subject 1's hand, nor did he see anyone touching the flashlight. However, Officer M believed the flashlight belonged to Subject 1 because of where it was found. According to Officer M, Officer A kept searching Subject 1 when two plainclothes officers arrived and a crowd of civilians began to form. Officer M reported that he then began to perform crowd control. Officer M believed he was the first officer to arrive at the gas station after Officer A and Officer B. (Att. 114)

In **his deposition**, **Officer C**, who was also named as a defendant in the federal lawsuit, stated that on December 15, 2012, he heard several calls. He first responded to a call of a wanted vehicle that was traveling down Garfield Boulevard from Western Avenue. Officer C related that once he heard that the suspect vehicle was being pursued by police officers, he and his partner, Officer K headed towards the pursuit. Officer C recalled hearing either Officer B or Officer A providing information over the radio. He then heard Officer B or Officer A call to say the offending vehicle had crashed and the offenders were fleeing on foot. Officer C believed the next thing he heard was a call indicating shots were fired. He could not remember who reported shots fired over the radio. Officer C and Officer K headed toward the gas station and saw several police cars in the area. Officer C also saw a wrecked SUV and, "a bunch of civilians" and a couple of squad cars at the Gas Station. Officer C and Officer K did not stop at the gas station. Instead, they continued touring the area "looking for any of the offenders that were running from the scene." The officers did not apprehend any of the offenders, and Officer C did not know if they saw any.

About ten minutes after hearing the call of "shots fired," Officer C and Officer K drove to the alley behind the gas station and adjacent laundromat. Officer C believed at that point, somebody on scene was calling for help or for more officers. Once in the alley, Officer C exited the vehicle. When he arrived, Officer C observed, Officer B, Officer A, and Subject 1 present on scene. Officer C related that he observed Subject 1 lying face down in handcuffs and was unaware if Subject 1 was alive or deceased at this point. Officer C stated that he did not see a flashlight but further related he was not looking for one. (Att. 106)

Officer J stated in **his deposition** that he was at the gas station on the date of Subject 1's shooting because of the vehicle pursuit involving a Trailblazer with Indiana temporary plates. Officer J stated that he and his partner, Officer I, did not pursue the Trailblazer for multiple reasons, including weather conditions and the high rate of speed the Trailblazer was driving. Officer J related that when he and his partner arrived at the gas station, three or four officers were already present. According to a General Progress Report (GPR), Officer J heard Officer B, "yell 'He's got a gun.'" During his deposition, Officer J confirmed that he heard Officer B state, "'He's got a gun.' 'I need assistance.'" Officer J related that he was exiting his police vehicle in the alley

behind the gas station when he heard Officer B say this. Officer J believed Subject 1 had already been shot when he heard Officer B make these statements. The GPR also stated that Officer J observed a flashlight in the decedent's right hand during a "split second" where Officer J was running to the gas station from the alley and saw Subject 1. Officer J indicated he was approximately six feet away from Subject 1 when he observed this. According to Officer J, he saw Subject 1 struggling after Subject 1 was shot while the officers tried to handcuff him. Officer J further reported that he saw the flashlight a second time after Subject 1 was shot, as the flashlight was on the ground. (Att. 102)

In his **deposition**, **Officer I** related that on the day Subject 1 was shot, there were Dispatch messages regarding a "vehicle that was wanted for holding up semi-trucks that day." Officer I further testified that the silver SUV Subject 1 was in was identified as the same vehicle involved in said robberies. Officer I and his partner, Officer J, observed this vehicle on Western Avenue, called for back-up, and a marked vehicle began pursuit with Subject 1's vehicle before the suspect vehicle eventually crashed at a gas station. Officer I elaborated that he and his partner also followed the vehicle in their police car upon sighting it. However, a marked vehicle took over the pursuit (identified as the vehicle occupied by Officer A and Officer B), while Officer I and his partner followed from a distance. Officer I elaborated that distance was maintained because of the rainy weather conditions. Furthermore, Officer I believed that the SUV's occupants identified him and his partner as police officers because they sped off while driving erratically. Officer I and his partner eventually saw that the silver SUV crashed in front of the gas station. Next, Officer I and Officer J entered an alley and exited their vehicle to search for the offenders who fled after the crash. Officer I heard screaming coming from the gas station so he and his partner ran to the gas station via the alley. According to Officer I, he and his partner observed two officers attempting to handcuff a man (identified as Subject 1) who struggled with the officers. Eventually, Officer A placed Subject 1 into handcuffs while Subject 1 was on the ground. Officer I denied seeing Subject 1 get shot or hearing gunshots. While approaching the scene, Officer I related that he heard a female officer screaming. Officer I testified that he thought he briefly observed a flashlight in Subject 1's right hand. Later, Officer I saw the flashlight on the ground near where Subject 1 was shot and announced that it needed to be inventoried. (Att. 103)

A **deposition** was also conducted with **Medical Examiner 1**, the assistant medical examiner from the Cook County Medical Examiner's Office who conducted the decedent's autopsy. Medical Examiner 1 estimated that, at the time of her deposition, she had performed 1,008 postmortem examinations "involving multiple gunshot wounds." Medical Examiner 1 related that she performed Subject 1's autopsy on December 17, 2012. Medical Examiner 1 defined homicide as, "Death at the hands of another," and ruled Subject 1's death as, "the result of multiple gunshot wounds." Medical Examiner 1 also stated that there was a black glove on Subject 1's left hand at the time of his autopsy and he was handcuffed behind his back. Medical Examiner 1 also reported that there was, "a small amount of blood," on Subject 1.

Medical Examiner 1 identified Bullet Point No. 1 as "a gunshot wound to the left side of the back," on Subject 1, located "23 inches beneath the top of the head," and "five inches to the left of the posterior midline." Medical Examiner 1 related that Bullet Point No. 1 "came in on the left side of the back, fractured the 11th rib and then involved the diaphragm [...] then went through the lower portion of the left lung, entered the heart [...] passed through the left atrium, exits on the front [...] exits the chest cavity above the second rib [...] then courses through the musculature of the right side of the chest and into the musculature of the right arm." Medical Examiner 1 further related that she recovered a "deformed medium caliber copper jacketed bullet," from Subject 1's right arm. Medical Examiner 1 elaborated that, "the wound course for this gunshot wound is back to front, left to right, and upward." Medical Examiner 1 clarified that this bullet never exited Subject 1's body. Medical Examiner 1 identified Bullet Point No. 2 on Subject 1's outer left hip, "32 inches beneath the top of the head and 8.3 inches to the left of the anterior midline." Medical Examiner 1 described that the course of

Bullet Point No. 2 moved, “through the hip [...] towards the front [...] of the lower leg [...] exits the thigh, reenters the body through the penis, then enters into the front of the right thigh.” Medical Examiner 1 clarified that this bullet displayed downward trajectory.

Medical Examiner 1 also noted “nonfatal” injuries on Subject 1 in the form of abrasions and lacerations. Medical Examiner 1 reported that Subject 1’s right quadricep muscle, “was lacerated or torn,” and that this was, “the result of blunt trauma” and “not associated with the gunshot wound.” According to Medical Examiner 1, the location of Subject 1’s gunshot wounds, “would be consistent with the shooter being on the left side” because, “those areas would have had to be exposed to the person who did the shooting.” Medical Examiner 1 indicated that Subject 1 would likely not have survived for “very long” after he was shot due to hemorrhaging. Medical Examiner 1 related that since one shot went through the decedent’s heart and the other went through his femoral artery, both shots were fatal and she could not determine which had killed Subject 1. (Att. 110)

In her **deposition**, **Forensic Scientist 1** related she was employed by the Illinois State Police as a Forensic Scientist and conducted DNA analysis on evidence from Subject 1’s shooting scene. Forensic Scientist 1 explained DNA as, “a genetic blueprint that is in our body,” that contains, “cellular material.” Forensic Scientist 1 related that factors possibly affect if cellular material will be transferred to an object. Examples given by Forensic Scientist 1 included the existence of a barrier (such as a glove), contamination, the surface of an item, the rate at which a person sheds skin cells, and moisture. Forensic Scientist 1 elaborated that “water can wash away a lot of DNA” and water can also degrade/dilute DNA. Forensic Scientist 1 also reported that if more than one person touches an object, the DNA of the second individual can “mask” the DNA of the first person. Forensic Scientist 1 related that it is not uncommon for there to be no DNA suitable for analysis found on an object. In Subject 1’s case, a blood sample taken post-mortem was used from the decedent. For the flashlight found on the scene, a mixture of DNA from at least two people was found on this object “from which Subject 1 cannot be excluded.” Forensic Scientist 1 elaborated that she was unable “to obtain a complete DNA profile,” meaning the DNA taken from Subject 1 and DNA found on the flashlight could not be a 100% match due to a lacking component in the DNA called an allele. While a definitive match could not be made, the analysis related that 1 in 50 quintillion black individuals could have left this DNA profile, making it likely Subject 1 left the DNA. With regards to the second DNA profile found on the flashlight, Forensic Scientist 1 related that she could confirm it was human DNA but she was able to make any analyses due to its poor quality. Forensic Scientist 1 also stated that she cannot determine how or where DNA gets to be on an object or if it transferred through primary or secondary means. Forensic Scientist 1 testified that she never obtained a DNA profile for Officer B or Officer A. (Att. 116)

In her **deposition**, **Forensic Scientist 2** from the Illinois State Police reported that at the time of her deposition, she was employed as Forensic Scientist III by the Illinois State Police at the Forensic Science Center in Chicago, Illinois. Forensic Scientist 2 defined a latent fingerprint as “an impression that’s [...] not necessarily left intentionally.” Forensic Scientist 2 further explained that when looking for fingerprints she is, “looking for ridge detail that is suitable that I can compare to an individual.” The deposition referenced evidence recovered from the scene of Subject 1’s shooting. Forensic Scientist 2 related that she examined evidence but was unable to identify suitable latent prints on either a flashlight or the batteries from inside the flashlight. Forensic Scientist 2 further stated she examined bolt cutters that also lacked suitable latent prints. Regarding the flashlight, Forensic Scientist 2 reported that this object has a textured surface which can be less suitable for latent finger prints than a smooth surface. Additionally, it was rainy on the day of Subject 1’s shooting which could have affected the presence of fingerprints on the flashlight. This deposition covered several additional circumstances that could have impacted the presence of suitable latent fingerprints on the flashlight, including the object having never been touched. It should be noted that Forensic Scientist 2 was hesitant to speak in

generalizations because evidence varies on a case-by-case basis. In this case when referring the flashlight, Forensic Scientist 2 had no, "opinion as to whether the object was touched by Subject 1." (Att. 104)

Civilian 1, who was identified as a witness to Subject 1's shooting, related in his **deposition** that on December 12, 2012 he observed Subject 1 engaged in a "tussle" with a male police officer (identified as Officer A). Subject 1 flipped Officer A then "got up to run and was shot." Civilian 1 related that during the incident, he was in the parking lot of the laundromat next to the Phillips 66 Gas Station and he was approximately 25 – 30 feet away from the incident. Civilian 1 indicated that he never saw the female officer (identified as Officer B) un-holster her firearm. Civilian 1 further related that after Subject 1 was shot, he "went down" and Officer A proceeded to grab Subject 1. Civilian 1 stated that Subject 1 was on the ground in a standing position and in "motion to run" at the time he was shot. Civilian 1 compared Subject 1's motion to participants in a track race doing "on your mark, get set, go." Civilian 1 reported that he could not see Subject 1's right hand immediately before Subject 1 was shot. However, Civilian 1 stated that while Subject 1 was wrestling with Officer A before he was shot, Civilian 1 saw Subject 1's hands. Civilian 1 related that Subject 1 had nothing in his hands because Subject 1 was trying to grab Officer A. According to Civilian 1, Subject 1 lifted Officer A up and flipped the officer off his back before attempting to get up and run away. Civilian 1 related that it did not appear that Officer B was attempting to assist in restraining Subject 1 because she discharged her weapon as soon as Subject 1 flipped Officer A. Civilian 1 stated that Officer B was standing next to Subject 1 and before Subject 1 had fully stood up, she shot the decedent. Civilian 1 confirmed that there was a "split second" in which Subject 1 was getting up to run that Civilian 1 could not see Subject 1's right hand. Per Civilian 1, Subject 1 and Officer B were face to face once Subject 1 rose from the ground. Civilian 1 stated that Officer A again had Subject 1 in a chokehold and that Subject 1 was placed into handcuffs after he was shot. Civilian 1 reported that Subject 1 did not struggle after being shot.

Per Civilian 1, he was outside smoking a cigarette when he saw that an SUV had hit a pole and four to six black men were exiting the car and running away. Civilian 1 related that he then saw a police SUV "swerved to the side of the crashed vehicle and they hit Subject 1." Subject 1 was underneath the CPD vehicle when Officer A dragged Subject 1 out and the two men struggled with each other. Civilian 1 did not recall hearing either officer saying anything to Subject 1. However, Civilian 1 believed that the officers may have been mumbling while interacting with Subject 1 and Civilian 1 was unable to hear what the officers were saying. Civilian 1 testified that after the shooting, he saw a woman he believed to be Subject 1's mother and gave her his contact information as a witness but he had refused to speak with police officers on the scene. In Civilian 1's opinion, Subject 1 "was not a threat to these police officers at the time that the incident happened."

Civilian 1 also stated that after Subject 1 was shot, he got closer to the scene and was near a guardrail that separated the gas station parking lot from the laundromat's parking lot. Civilian 1 reported that while he was standing with one leg on each side of the guardrail, a male officer came running through the alley and pushed Civilian 1. Civilian 1 related that he was shouting about the situation with Subject 1 and he thought this unidentified officer may have heard and that was why the officer pushed Civilian 1. Civilian 1 could not recall the officer's name or badge number. According to Civilian 1, this unidentified male officer gave him no warning prior to the push. Civilian 1 related that he was "still a nice little distance" away from Subject 1 and Civilian 1 believed the officer could have been nicer about getting him to stand back. (Att. 111)

Civilian 22 stated in his **deposition** that he was a XXXXX at the Phillips 66 Gas Station and working with an employee named Civilian 10 at the time the decedent was shot. According to Civilian 22, on the day of the shooting he "heard a loud crash" and when he looked through the window, he saw a SUV had crashed into the fence on Garfield Boulevard. He then saw "two or three" young, black men exiting from the back of the vehicle. Next, a crowd formed around the incident and shortly after, individuals ran into the gas station. Civilian

22 elaborated that he heard “three or four” gunshots but did not see who had shot a gun. Civilian 22 stated that he again looked outside but could not see anything aside from a crowd outside. Civilian 22 realized that someone had been shot but he reported that he did not have a clear view of what was happening. Civilian 22 reported that he did not hear the police talking or yelling between the time of the crash and the time of the gunshots. According to Civilian 22, after the shooting, he saw police officers outside and multiple police vehicles.

Civilian 22 related that about 15 minutes after the shooting, he went outside and saw Subject 1’s body motionless on the ground and an ambulance was on scene. Civilian 22 stated that he did not see Subject 1 engage in a physical altercation with the officers, nor did he see Subject 1 getting shot. Civilian 22 indicated that a large crowd formed after the shooting and people were upset and disparaging the police. Civilian 22 related that police on the scene were also upset and trying to control the situation. Civilian 22 stated that approximately an hour after the shooting he gave the police access to the gas station’s security camera footage. According to Civilian 22, Department members provided a flash-drive and he downloaded approximately eight minutes of video footage that included the shooting. Civilian 22 related that he gave the officers what they asked for and he did not withhold any footage. However, Civilian 22 may have also told the officers that getting a longer amount of footage would be time-consuming and difficult. Civilian 22 estimated that the police presence after the shooting lasted approximately four or five hours.

Civilian 22 stated that “a couple days after the shooting,” Civilian 19 came and spoke to him. Civilian 19 asked Civilian 22 if her son was in handcuffs while he was shot. Civilian 22 told her that from what he observed in video footage, the decedent was not handcuffed at the time he was shot. Civilian 22 also told Civilian 19 that he no longer had the video and had given it to the police. Civilian 19 came in again approximately a week later wanting to see the tape so Civilian 22 gave her the name and phone number of the officer who downloaded the footage. Civilian 22 related that the owner of the Phillips 66 Gas Station instructed him not to release the video, so he did not give it to Civilian 19 even though he had possession of the footage. Civilian 22 further related that several days after the shooting, there was a lawyer at the gas station taking photos who was possibly named Civilian 24 Civilian 22 stated that this lawyer never spoke to him. (Atts. 97, 98)

In his **deposition, Civilian 23**, who was identified as a witness to Subject 1’s shooting, stated that on December 15, 2012, he spoke with Subject 1’s mother near the gas station where Subject 1 was shot after Civilian 19 was asking if anyone had seen the shooting. Civilian 23 related he gave Civilian 19 his contact information but did not have a conversation with her. Civilian 23 also indicated that the day after Subject 1 was shot, Subject 1’s family’s attorney, Civilian 24, was at the gas station and Civilian 23 talked to Civilian 24 at that time. Civilian 23 stated that on December 15, 2012, he and his friend Civilian 25 were standing outside the gas station talking and that it was drizzling outside. Civilian 23 observed a tan SUV lose control and hit a pole before it spun around. According to Civilian 23, he was approximately 60 – 70 feet away from the incident. Civilian 23 saw three men exit the SUV and run west. A fourth man (identified as Subject 1) came out of the car and a CPD SUV struck Subject 1. Per Civilian 23, a male officer (identified as Officer A) got out and pulled Subject 1 from under the car. Civilian 23 then saw Subject 1 “tussling” with Officer A before Subject 1 pulled away and tried to run. Civilian 23 saw Subject 1 slip/lose his footing, then heard two gunshots. Civilian 23 believed Subject 1 was shot in the back because his back was turned to the officers. Civilian 23 did not see anything in Subject 1’s hands when Subject 1 got out of his vehicle or when Subject 1 was running after “tussling” with Officer A. After hearing the shots, Civilian 23 then saw an officer (believed to be Officer A) holding Subject 1 around Subject 1’s neck and with his leg “hooked across” Subject 1’s leg, before turning Subject 1 over and placing him in handcuffs. In Civilian 23’s opinion, Subject 1 was not attempting to fight the officers and was only attempting to flee. Civilian 23 recalled that a female officer (identified as Officer B) was

driving and Officer A was the passenger. Civilian 23 stated that he had recorded the incident on his Blackberry from when the SUV hit the pole but an unidentified police officer confiscated his phone. Civilian 23 related that he never followed up to get his phone back because he did not want his name associated with the police reports. Civilian 23 further alleged that officers have come to his house three times since he was served a subpoena for the deposition and he believes he is being harassed by CPD. (Att. 112)

Civilian 17 related in a **deposition** that on December 15, 2012, she witnessed a shooting at 55th and Ashland while she was waiting for the bus. Civilian 17 recalled that Subject 1 had a “black-ish grey” cellphone in his right hand at the time he was shot. Civilian 17 observed the cellphone in Subject 1’s hand as he was “coming from up under the car.” However, Civilian 17 later related that she did not see the cellphone until after Subject 1 was shot, at which point she saw it in his hand as he lay on the ground. Civilian 17 further explained that she saw “something” in his right hand when he got out from under the CPD vehicle. Civilian 17 testified that she was “in between 56th and 55th” and walking to go into the gas station with her boyfriend, Civilian 25, when she saw police “zooming past.” Civilian 17 could not recall her exact location during the incident, but believed she was crossing from the west to the east side of Ashland avenue when the police vehicle hit Subject 1. Eventually, Civilian 17 walked over to the same side of Ashland as the gas station and saw Subject 1 lying on the ground. According to Civilian 17, a non-police vehicle crashed into a light pole in front of the gas station, followed by several black males exiting the vehicle and running off. The police vehicle then hit Subject 1. Civilian 17 observed Subject 1 getting out from under the CPD vehicle and he appeared to be struggling with Officer A and trying to run. Civilian 17 indicated that it appeared Subject 1 was injured and was limping while attempting to run. Next, Civilian 17 saw a white male officer (identified as Officer A) “wrestling” with Subject 1 and on Subject 1’s back. Then, the female officer (identified as Officer B) “came from the side and she just opened fire and shot him.” However, Civilian 17 later related she was unsure which officer shot Subject 1. Civilian 17 testified that she did not see Subject 1 threaten the officers or make movements towards the officers. Civilian 17 believed Subject 1 was just trying to flee from the officers. Civilian 17 also recalled that before Subject 1 was shot and after he got Officer A off himself, “somebody hollered something about a gun or something.” Next, the man standing next to Civilian 17 announced, “That’s a cell phone,” and she saw a phone in Subject 1’s hand. Civilian 17 testified that Subject 1 was placed in handcuffs after he was shot. Civilian 17 believed Subject 1 was deceased before he was handcuffed. Civilian 17 related that she called IPRA because she disliked that the officers choked and handcuffed Subject 1 when he was “already dead.”

It should be noted that Civilian 17 reported that she is blind in her left eye. (Att. 113)

In a **deposition**, **Lieutenant A** related that he was on scene after Subject 1’s shooting and recalled that it was wet and rainy that day. According to Lieutenant A, he arrived on scene approximately 10 minutes after his office received a call and he was on scene for approximately three hours. Lieutenant A stated that after reviewing Department reports and other evidence relating to Subject 1’s shooting, he did not observe anything that would lead him to believe the shooting was not justified. The lieutenant related that based on what he knew about the case, he believed Officer B was justified in shooting Subject 1 because she was in fear of both her life and Officer A’s life. According to the lieutenant, from what he observed after the shooting, a large crowd formed and people were angry, including members of Subject 1’s family. Lieutenant A indicated that he approved the report of Subject 1’s shooting which called the incident a justified homicide. According to Lieutenant A, after he spoke with Officer B following the shooting, she did not recall saying “gun” prior to discharging her weapon at the decedent. The lieutenant believed this may have been because Officer B was in shock. (Atts. 99, 100)

Commander A stated in his **deposition** that he was a retired Chicago Police Executive Officer Commander. Commander A stated that he retired in January 2013 and he was a Commander and the Executive

Officer of Area Central in December 2012. Commander A indicated that he was not present at the time Subject 1 was shot but arrived on the scene approximately 30 minutes to an hour later. Commander A recalled seeing a flashlight on the scene. Commander A related that he was involved in investigating Subject 1's shooting. Commander A related that he spoke to Officer A at the scene, who informed the commander that he had been in a struggle with Subject 1. Commander A then had Officer A transported to the hospital. Once at the hospital Officer A informed Commander A about the pursuit which led to the suspect vehicle crashing and ultimately to a struggle between Subject 1 and police officers that ended in Subject 1's death. Officer A told Commander A that he heard Officer B state, "gun, gun" before she fired shots. According to Commander A, he spoke with Officer B at the hospital following Subject 1's shooting. Officer B related to Commander A that Subject 1 was fighting Officer A when she saw a weapon and fired. Commander A recalled that Officer B stated she saw what she believed to be a weapon, announced, "gun," and fired her weapon. In addition to Officer B reporting seeing a weapon on Subject 1, Commander A determined the shooting was justified because Subject 1 committed a felony, there was a high-speed chase that endangered others, Subject 1 fought with Officer A, and the officers had information that the suspects were armed. (Att. 105)

Detective A related in his **deposition** that he and his partner, Detective B, were assigned to Subject 1's shooting investigation. Detective A stated that on December 15, 2012, he responded to the gas station where Subject 1 was shot less than an hour after the shooting occurred because Lieutenant A instructed him to do so. According to Detective A, he interviewed Officer B, Officer A, and multiple witnesses. Detective A testified that based on his investigation, he made the decision that Officer B's shooting was justified. Detective A stated that he did not review any evidence that indicated the shooting may not have been justified. Per his notes from his interview with Officer B, Detective A recalled that she told him that she was monitoring a call regarding an armed robbery when she saw the suspect vehicle take off at a high rate of speed before crashing at 55th and Ashland. Detective A also noted that Officer B related to him that it was raining and wet, with debris in the road. Officer B also informed Detective A that she had an obstructed view as a passenger when Officer A hit Subject 1 with the CPD vehicle and the remaining suspects ran away. After striking Subject 1, Officer B and Officer A reportedly attempted to place Subject 1 into custody. Officer B related to Detective A that Officer A was on top of Subject 1 while she got on her radio to describe the fleeing suspects. She then told the detective that Subject 1 flipped her partner and slammed Officer A onto the ground. Next, Officer B told the detective that she yelled, "gun-gun" because she saw a black gun in Subject 1's right hand. Officer B went on to tell the detective that she feared for her and her partner's life so she discharged her weapon at Subject 1 two times, at which point Subject 1 fell and Officer B and her partner attempted to restrain Subject 1. Officer B told Detective A that she called Dispatch to get Subject 1 medical care and also saw a black flashlight that had been underneath the decedent. Detective A also included in his notes that Officer A told the detective that he heard Officer B yell, "gun-gun" before firing her weapon. (Att. 115)

Detective B stated in a **deposition** that he was not present when Subject 1 was shot. Detective B was called to the scene afterwards by Lieutenant A. According to Detective B, his partner on December 15, 2012 was Detective A. Detective B stated that while he was at the scene, he learned that the gas station had video surveillance so he went inside the gas station to talk to the XXXXX. The XXXXX took Detective B to another gas station employee who took the detective to the room with the video. After viewing the video, Detective B contacted CPD Video Services for a video technician to come obtain the footage. Detective B related that only the portion of video that included the shooting was taken, instead of footage that showed additional details before and after, because the incident was captured and he thought they had adequate evidence. (Att. 117)

Sergeant B, a defendant in the lawsuit, stated in his **deposition** that he was on the scene of Subject 1's shooting on December 15, 2012. According to Sergeant B, he arrived after Subject 1 was shot and "Paramedics were there working on him." Sergeant B related that he saw a flashlight and an article of clothing on the ground

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next to Subject 1's body. Sergeant B stated that he heard about the shooting via radio when he heard a female officer believed to be Officer B. According to Sergeant B, when he first arrived on the scene he went to speak with Officer B while she was in a marked CPD vehicle. The sergeant related that he sat in the car with her to see if she was okay. Sergeant B testified that he then went to speak with Officer A who was standing outside, asked Officer A if he was okay, then gave the officer a hug. The sergeant related that he then engaged in crowd control. (Att. 118)

Commander B, a named defendant in the lawsuit, stated in his **deposition** that on December 15, 2012, prior to Subject 1's shooting, he and Officer B were doing a Shopping with Santa program with CPD. The commander related this was his first time meeting Officer B. Commander B related that he and Officer B parted ways after Shopping with Santa and he went on to perform other police duties and personal errands. Commander B reported that he turned on his police radio and heard there had been an officer involved shooting so he drove to 55th and Ashland. The commander stated that, upon his arrival, he had a conversation with Officer B, who was in a squad car. Commander B said that Officer B was "shaken up" and he related to her what the next steps would be following Subject 1's shooting. Commander B also spoke with Officer A on the scene and related that Officer A looked as though he had been in a confrontation. The commander stated he asked Officer A if he was okay, related to the officer what the next steps would be regarding Subject 1's shooting, and advised Officer A to get medical care. Commander B stated that he never saw Subject 1's body. (Att. 119)

Signatures for Factual Summary:

COPA Investigator

Approved:

Supervisor, IPRA

Legal Standard

The applicable Chicago Police Department order is General Order 03-02-03. The version of this order in effect at the time of Subject 1's shooting states as follows:

"A sworn member is justified in using force likely to cause death or great bodily harm only when he or she

reasonably believes that such force is necessary:

1. to prevent death or great bodily harm to the sworn member or to another person, or
2. to prevent an arrest from being defeated by resistance or escape and the sworn member reasonably believes that the person to be arrested:
 - a. has committed or has attempted to commit a forcible felony which involves the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm or;
 - b. is attempting to escape by use of deadly weapon or;
 - c. otherwise indicates that he or she will endanger human life or inflict great bodily harm unless arrested without delay.”

In addition, the use of deadly force is codified under section 7-5 of the Criminal Code of 2012 (720 ILCS 5/7-5 (West 2012)). The pertinent parts of that statute state that:

“[a] peace officer *** need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force which he reasonably believes to be necessary to effect the arrest and of any force which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest. However, he is justified in using force likely to cause death or great bodily harm only when he reasonably believes that such force is necessary to prevent death or great bodily harm to himself or such other person, or when he reasonably believes both that:

- (1) Such force is necessary to prevent the arrest from being defeated by resistance or escape; and
- (2) The person to be arrested has committed or attempted a forcible felony which involves the infliction or threatened infliction of great bodily harm or is attempting to escape by use of a deadly weapon, or otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay.” 720 ILCS 5/7-5 (West 2012).

Under Illinois law, a forcible felony includes robbery, certain other enumerated felonies, and “any other felony which involves the use or threat of physical force or violence against any individual.” 720 ILCS 5/2-8 (West 2012).

Finally, an officer’s use of deadly force is a seizure within the meaning of the Fourth Amendment and, therefore, must be reasonable. *Muhammed v. City of Chicago*, 316 F.3d 680, 683 (7th Cir. 2002). “The ‘reasonableness’ inquiry in an excessive force case is an objective one: the question is whether the officers’ actions are ‘objectively reasonable’ in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation.” *Graham v. Connor*, 490 U.S. 386, 397 (1989); *see also Estate of Phillips v. City of Milwaukee*, 123 F.3d 586, 592 (7th Cir. 2003). The reasonableness calculation “must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.” *Graham*, at 396–97. The analysis must take into account the totality of the circumstances confronting the officer, rather than just one or two factors. *Plumhoff v. Rickard*, 134 S. Ct. 2012, 2020 (2014) (internal quotation marks and citation omitted); *see also Scott v. Edinburg*, 346 F.3d 752, 756 (7th Cir. 2003). The following factors are instructive in making the determination of whether an officer’s use of force is reasonable: (1) “the severity of the crime at issue;” (2) “whether the suspect poses an immediate threat to the safety of the officers or others;” and (3) “whether he is actively resisting arrest or attempting to evade arrest by flight.” *Graham*, 490 U.S. at 396 (citing *Tennessee v. Garner*, 471 U.S. 1, 8-9 (1985)).

“Where an officer has probable cause to believe a suspect poses a threat of serious physical harm, either to the officer or to others, it is not constitutionally unreasonable to prevent escape by using deadly force.”

Garner, 471 U.S. at 11. Thus, if “there is probable cause to believe that [the suspect] has committed a crime involving the infliction or threatened infliction of serious physical harm, deadly force may be used if necessary to prevent escape, and if, where feasible, some warning has been given.” *Garner*, 471 U.S. at 11-12. Under the *Garner* test, it is not necessary that the suspect be armed or threaten the officer with a weapon. *Forrett v. Richardson*, 112 F.3d 416, 420 (9th Cir. 1997) (overruled on other grounds by *Chroma Lighting v. GTE Prods. Corp.*, 127 F.3d 1136 (9th Cir. 1997)).

Analysis

A. Officer B’s Use of Deadly Force

COPA finds Officer B’s use of deadly force was **Within Policy** under federal law, state law, and the second prong of General Order 03-02-03, commonly referred to as the fleeing felon rule. First, based on the totality of the circumstances, a reasonable officer in Officer B’s position would have believed that Subject 1 had committed or attempted to commit a forcible felony involving the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm. In addition, a reasonable officer in Officer B’s position would have believed that the use of deadly force was necessary to prevent Subject 1’s arrest from being defeated by resistance or escape.

1. A Reasonable Officer Would Have Believed That Subject 1 Committed or Attempted to Commit a Forcible Felony Involving the Infliction, Threatened Infliction, or Threatened Use of Physical Force Likely to Cause Death or Great Bodily Harm

Based on the information known to Officer B, a reasonable officer in her position would have believed Subject 1 had committed or attempted to commit a forcible felony involving the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm.

In their statements to IPRA and COPA, Officer B and Officer A recalled receiving dispatch transmissions that individuals in a silver Trailblazer were committing robberies and at least one of the suspects in the vehicle was armed. Specifically, Officer B recalled hearing a radio transmission regarding an armed robbery in progress. She and Officer A began driving toward 38th and Kedzie, the area of the armed robbery. Officer B recalled hearing the dispatcher say, “the offenders were armed.” She later learned “somehow, that the silver SUV had an Indiana template or tag on it.” Officer B said that she and Officer A also heard another call “[a]bout the same circumstances” taking place by 54th and Western by suspects in a silver gray SUV Trailblazer. She recalled the dispatcher advising to “use caution” and stating “[t]hey’re armed.” Like Officer B, Officer A recalled receiving a call of an armed robbery occurring at 38th and Kedzie and being advised that one of the individuals was armed. Officer A said he later heard another call of the same vehicle make “hitting trailers on 54th and Western.”

The CPD Event Queries corroborate Officer B’s and Officer A’s accounts of the information they knew as they approached the vehicle in which Subject 1 was riding. Those Event Queries indicate that dispatch related that a 2006 Trailblazer was trying to rob a truck driver; that the Trailblazer was silver and had Indiana license plates; that the vehicle contained approximately five black males and a gun; that at least one of the suspects was armed; and that the suspect vehicle “should have a gun in the car.”

Officer B and Officer A then saw a vehicle on 51st Street and Western Boulevard that matched the description of the vehicle that was transmitted through dispatch. Officer B stated that she could see four or more people inside the vehicle. She further explained that as the SUV pulled away and she and Officer A began to

chase it, she could see the vehicle had an Indiana license plate, from which she could conclude “for sure that, you know, this was the vehicle that was wanted for those armed robberies.”

All the foregoing establishes that the SUV from which Officer B observed Subject 1 fleeing matched the description of a vehicle that had been reported as having committed two robberies. From this, an officer in Officer B’s position would reasonably have believed that Subject 1 had committed robbery, a forcible felony. See 720 ILCS 5/2-8 (West 2012). Further, Officer B had also been advised more than once, via dispatch, that at least one of the suspects in the vehicle from which Subject 1 was fleeing possessed a gun. Given this, an officer in Officer B’s position would have reasonably believed Subject 1 had committed or attempted to commit an armed robbery, which is a forcible felony involving the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm.

2. A Reasonable Officer Would Have Believed the Use of Deadly Force Was Necessary To Prevent Subject 1’s Arrest From Being Defeated by Resistance or Escape

An officer in Officer B’s position would also have reasonably believed that the use of deadly force was necessary to prevent Subject 1’s arrest from being defeated by resistance or escape.

The evidence in this case establishes that Officer B and Officer A made repeated attempts to apprehend Subject 1, both through the use of verbal commands and through physical force. First, Officer B and Officer A warned Subject 1 and the other passengers in the SUV to stop when they activated their emergency equipment. However, the SUV continued to drive for multiple blocks while Officer B and Officer A chased it. The SUV ultimately stopped only after crashing into a pole. Even after the SUV crashed and Subject 1 was struck by Officer A’s and Officer B’s vehicle, Subject 1 continued trying to move out from under the vehicle. Officer A then attempted to place Subject 1 in handcuffs, using verbal commands as he did so. However, Subject 1 flipped Officer A over and tried to escape. Subject 1 also pulled away as Officer B reached out and grabbed his arm. Thus, the evidence shows the officers made repeated attempts to apprehend Subject 1, but their efforts had failed.

The video evidence, as well as the statements of multiple witnesses, establish that Subject 1 was starting to move away from Officer B in the moments before Officer B fired two shots, in rapid succession, at Subject 1. Further, when Officer B fired at Subject 1, Subject 1 had just flipped Officer A onto his back, such that Officer A could not readily assist Officer B in apprehending Subject 1. Based on all of the foregoing, a reasonable officer in Officer B’s position would have believed the use of deadly force was necessary to prevent Subject 1’s escape. See, e.g., *Klein v. Ryan*, 847 F.2d 368, 373 (7th Cir. 1988) (a police officer could reasonably believe deadly force was necessary to prevent a suspect’s arrest from being defeated by resistance or escape where the officers told the suspect to halt and reasonably believed the suspect heard them, but the suspect continued to flee, getting in his car and driving away); *Lamonte v. Belleville*, 41 Ill. App. 3d 697, 704 (1976) (an officer’s use of deadly force was justified where an individual, who matched the description of an armed robbery suspect, was disarmed in a struggle with an officer but then continued his effort to escape despite orders by the officer to halt).⁷ Therefore, the shooting was within policy.

⁷ *Klein* and *Lamonte* concerned officers’ use of force that occurred prior to the decision in *Garner*, during which time the Illinois statute allowed an officer to use deadly force when he reasonably believed such force was necessary to prevent an arrest from being defeated by resistance or escape and the person to be arrested had committed or attempted a forcible felony (not a forcible felony involving the infliction or threatened infliction of great bodily harm). See *Klein*, 847 F.2d at 372; *Lamonte*, 41 Ill. App. 3d at 703. Nonetheless, the *Klein* and *Lamonte* courts’ conclusions as to when deadly force is justified to prevent an escape are still relevant.

Finally, as COPA determined the shooting justified under the second prong of General Order 03-02-03, it was unnecessary to analyze this case under the first prong. However, we note that Officer B stated that she shot Subject 1 because she was in fear of her life and Officer A's life. Officer B claimed that she observed Subject 1 pointing a black object in her direction, which she believed to be a gun, right after Subject 1 had flipped over Officer A. If Officer B's claim were believed, arguably her shooting would have been justified under the first prong of General Order 03-02-03, which allows an officer to use deadly force when a reasonable officer would believe the use of deadly force was necessary to prevent death or great bodily harm to the officer or another. However, based on our review of the evidence, we question the plausibility of Officer B's perceptions that Subject 1 had an object in his hand.

First, neither Officer A nor Officer B claimed to see a gun, or other object, in Subject 1's hand prior to the moment before Officer B shot Subject 1. It seems likely that Subject 1's hands would have been visible at some point between Subject 1 physically crawling out from under a car, struggling with Officer A, and flipping Officer A over his body. Further, civilian and CPD witnesses provided conflicting stories as to whether there was an object in Subject 1's hand. While Subject 1 could not be excluded as a contributor of the DNA found on the flashlight recovered at the scene, it is notable that Subject 1 was bleeding on the scene after being shot. Thus, it is unknown if his DNA was on the flashlight because he was holding the flashlight or because he bled on to it at the scene. Moreover, a DNA profile from a second individual was located on the flashlight but was unsuitable for identification.

Moreover, while Officer B stated that she believed she saw a gun in the moments after Subject 1 flipped over Officer A and rose to his feet, it is unlikely that Officer B would have seen anything in Subject 1's hands during this brief time frame. Officer B claimed to have a "staggered" frontal view of Subject 1, but Subject 1's wounds indicate Officer B was to his back left. While possible, it was unlikely that Subject 1's body would have been in such a position as to have the back-left side of his body to Officer B while also pointing his right arm at her at the time same. Considering that the bullet traveled from Subject 1's left rear torso to his right arm without exiting his body, the bullet would have had a linear path through his body. Given the linear trajectory through the body and location of the bullet in Subject 1's right arm it is unlikely Subject 1's right arm was turned toward Officer B. More consistent with the evidence, as it appears in the video and as was further attested to by eye witnesses, Subject 1 was likely in a running position with his right arm out front. Further, we note that multiple witnesses related that Subject 1 was attempting to run with his back towards Officer B and was not threatening the officers. Finally, we question the reasoning why Subject 1 would point a black metal object, which was not a gun, at Officer B and Officer A when he was presumably fully aware that both officers would be armed. To do so would have been an attempt at suicide by police.

The ultimate question is whether Officer B's use of force was objectively reasonable in light of the facts and circumstances known to her. *Graham*, 490 U.S. at 397-99; CPD General Order 03-02(III)(C)(2) ("The reasonableness of a particular use of force will be judged under the totality of the circumstances viewed from the perspective of a reasonable officer on the scene."). The details surrounding the incident and the information Officer B received from dispatch prior to shooting Subject 1 set forth the necessary facts to establish that Officer B's use of deadly force was objectively reasonable under the second prong of General Order 03-02-03. COPA finds her use of deadly force was **Within Policy⁸ based on the general order and the applicable case law.**

⁸ In contrast, COPA acknowledges that Officer B did not explicitly refer to the second prong of CPD General Order 03-02-03 ("the fleeing felon prong") as her justification for the use of deadly force. Instead, she claimed that she used deadly force because she believed her life and Officer A's life were in danger. However, Officer B's subjective reason for using force is not the inquiry.

Conclusion

Although we have found Officer B's use of deadly force was within policy under the second prong of General Order 03-02-03, the shooting and surrounding circumstances warrant further discussion.

Subject 1's death occurred on December 15, 2012. On October 17, 2017 CPD implemented an amended use of force policy. General Order 03-02 now provides that deadly force can only be used when, *inter alia*, such force is necessary to prevent "an arrest from being defeated by resistance or escape, where the person to be arrested poses an imminent threat of death or great bodily harm to a sworn member of another person unless arrested without delay." In turn, "A threat is imminent when it is objectively reasonable to believe that: the subject's actions are immediately likely to cause death or great bodily harm to the member or others unless action is taken; and the subject has the means or instruments to cause death or great bodily harm; and the subject has the opportunity and ability to cause death or great bodily harm."

Under the new policy, if an objectively reasonable officer in this case would not have believed that Subject 1 had a weapon when he fled on foot, arguably it would not be objectively reasonable to believe Subject 1's actions were "immediately likely to cause death or great bodily harm to the member or others" or that he had "the means or instruments to cause death or great bodily harm." Based on our view of Officer B's account, COPA does not find a reasonable officer would have believed Subject 1 was an imminent threat of death or great bodily harm and this shooting would not have been within policy.

Additionally, officer tactics prior to the shooting created an avoidable situation. First, Officer A engaged in a bad pursuit. The full details and analysis of this pursuit are contained in the Summary Report for Log #1086838. In short, the weather and visibility conditions, plus the pursuit's high rate of speed, created unsafe conditions. The choice to engage in the pursuit led to the confrontation between Subject 1 and Officer B. Ultimately, due to the slick roads, Officer A was unable to stop his vehicle and hit Subject 1. As a result, Officer A and Officer B were in close proximity to Subject 1 as soon as they exited their vehicle and were unable to use distance as a tactic.

Next, the video shows that while Officer A was reportedly trying to place Subject 1 into handcuffs, Officer B turned her back on Officer A and Subject 1. Officer B indicated in her IPRA statement that she believed Officer A had gained control of Subject 1 at that point. However, Officer A did not yet have Subject 1 in handcuffs. It was a poor tactic for Officer B to turn away from her partner and Subject 1 before Subject 1 was in handcuffs. Had Officer B chosen not to turn away, she may have had an opportunity to assist her partner before Subject 1 defeated the attempted arrest.

Finally, Officer B's decision not to holster her weapon earlier in the interaction led directly to Subject 1 being shot. Despite purportedly believing Officer A had control of Subject 1 such that she could turn away, Officer B did not immediately re-holster her gun. Yet, she *did* try to re-holster her gun moments later, before firing on Subject 1. Officer B explained in her IPRA statement that she tried to re-holster her weapon at that point because she "did not see a threat" but saw her partner was losing the fight. If Officer B did not see a threat at that point, presumably she also did not see a threat when she turned away from Officer A. Accordingly, Officer B should have re-holstered her weapon immediately at the point that she turned away from Officer A and Subject 1. Had Officer B done so, she would have been able to use her hands to assist Officer A as Subject 1 began to try to defeat the arrest. In fact, there was no purpose in Officer B continuing to hold her firearm when Officer A was on top of Subject 1, as Officer B would not have been able to fire at Subject 1 without putting Officer A's life at risk, too. Instead, the only reasonable choice for Officer B at that point was to holster

her weapon and make herself available to assist, should Officer A lose control of Subject 1 before being able to place Subject 1 in handcuffs. The choice not to holster the weapon until it was too late led directly to Officer B using the only available tool she had after Subject 1 pulled away from her grip, to shoot and ultimately kill Subject 1. In sum, Officer B's decision not to holster her weapon made it impossible for her to assist Officer A in controlling and cuffing Subject 1.

Subject 1's death was a tragic occurrence that deeply impacted not only his family but the broader community. Officer B shot an unarmed Subject 1 as he fled. These facts—unarmed black men shot by police officers while fleeing—appear all too often in headlines across our country. The outcome in the instant case may be difficult for the public to accept. Nevertheless, COPA is limited to applying existing laws and rules to the facts of each case. As a result, our findings in this instance conform to the standard against which we must measure officer conduct but fail to provide, not only the Subject 1 family, but the community at large with an outcome commensurate with this loss.

Approved:

Deputy Chief Administrator, COPA